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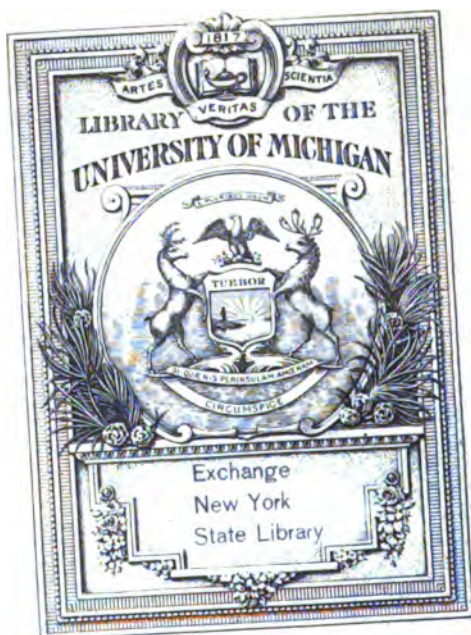
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NEW YORK LEGISLATIVE DOCUMENTS

ONE HUNDRED AND FORTY-FOURTH SESSION

1921

VOL. XXI — NOS. 51 TO 61 INCL.



ALBANY
J. B. LYON COMPANY, PRINTERS
1921



STATE OF NEW YORK

ANNUAL REPORT

OF THE

Department of Education

(Publication of this report deferred to later year)



ALBANY
J. B. LYON COMPANY, PRINTERS
1922

STATE OF NEW YORK

ANNUAL REPORT

OF THE

New York State Museum

(Publication of this report deferred to later year)



ALBANY
J. B. LYON COMPANY, PRINTERS
1922

STATE OF NEW YORK

ANNUAL REPORT

OF THE

ATTORNEY-GENERAL

For the Year Ending December 31, 1920

CHARLES D. NEWTON
Attorney-General



ALBANY
J. B. LYON COMPANY, PRINTERS
1921

STATE OF NEW YORK
OFFICE OF THE ATTORNEY-GENERAL

To the Legislature of the State of New York:

In conformity with the requirements of section 66 of the Executive Law, I have the honor to submit herewith the annual report of the Attorney-General for the year ending December 31, 1920.

Dated, January 31, 1921.

CHARLES D. NEWTON,
Attorney-General.

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REPORT

RECONSTRUCTION

The activities of the Attorney-General of New York State, like the concerns of other public officers, largely reflected during the year of 1920 the developments of the so-called period of reconstruction into which the country was ushered after the signing of the Armistice.

Litigation handled by the Attorney-General and a large number of the opinions through which he advised State and municipal departments and quasi-public institutions of their rights and the legal propriety of prospective administrative action bore the unmistakable impress of the period of reconstruction. The character of the inquiries made to this office indicated that the administrative branches of government, major and lesser alike, were striving to solve these problems which the strained conditions created by the war had imposed upon them. Just as business generally and private industries were struggling with post-war tasks, so too the agencies of government were grappling with similar administrative complexities; and this was the rule even in the smallest political subdivisions of the State. My correspondence shows that even the villages and school districts did not escape the difficulties of the newly-created peace.

Opinions rendered during the year including formal opinions, memoranda, and letter and informal opinions totaled over 4,800.

Litigation handled during the year involved 15,401 cases.

One phase of the reconstruction era is disclosed in the agitation of public utility and service corporations for increases in the rates chargeable for the special commodity or service they render. Gas and electric corporations were the first to initiate the campaign for larger returns as my report of a year ago indicated. At that time I advised you that a dozen or more gas and electric corporations had instituted proceedings designed to nullify statutes which fixed the rates to be charged for gas and electricity upon the ground that the limitations imposed by those laws enforced at the

present time would constitute a virtual confiscation of their properties. Since that time additional proceedings have been brought until now they number twenty-two. I am still engaged in the work of defending the validity of these statutes. You will appreciate the immensity of this task which involves the necessity of proving values of plant, cost of labor and materials, cost of production, cost of distribution and the innumerable other factors that must be established before any court will undertake to uphold or overthrow these rate-fixing statutes.

Another phase of the reconstruction is found in the petition of the railroads for permission to increase their passenger rates, a development that followed closely upon the heels of the agitation started by the gas and electric corporations. The litigation evolving from this petition and its subsequent sustention by the Interstate Commerce Commission promises to equal in importance the gas and electric rate proceedings.

The recent action of the Interstate Commerce Commission in granting the railroads permission to increase their passenger rates to 3.5 cents per mile cast upon the Attorney-General the duty of instituting actions having as their aim the salvation of the rights of the State to control intra-state passenger rates. Just before the rate increases were placed in effect I applied on behalf of the State for an injunction order to Supreme Court Justice Cropsey in the hope that I could restrain the railroads from charging the higher fares until I could bring the matter of the validity of the Commerce Commission's order to the attention of the United States Supreme Court for determination. My plans were temporarily upset by the vacating of this restraining order by Supreme Court Justice Hasbrouck. This development, however, will not deter me from carrying the case on appeal to the higher courts and ultimately to the United States Supreme Court. In one of the actions involved in this series of proceedings Supreme Court Justice Benedict upheld the State's contention of the invalidity of the federal commission's order in so far as it related to the rates effective on the Staten Island and Long Island railroads. You may be assured that this litigation will be prosecuted with unflinching energy by the State.

With respect to reconstruction, I am impelled to say that it

gives me no small satisfaction to be able to report that lately I have discerned in the nature of State's legal correspondence, in the interchange between the Attorney-General and the governmental agencies seeking official advice and guidance, evidences of a gradual solution of the problems of reconstruction and an approach to natural conditions that is encouraging. These evidences of improvement, I trust, foretell a continuation of the trend back to normal.

It is my personal belief that the State and municipal governments have successfully passed through the most trying interval of the reconstruction period. I see no reason for pessimism in the present outlook. I think every indication now carries a measure of encouragement. The roughest stretches of the road of government are behind us.

CORPORATION INCOME TAX UPHELD

One of the outstanding features of the activities of the Attorney-General was the successful defense of the constitutionality of the Corporation Income Tax against which a legal broadside was directed again this year. This victory in the courts earned after a year of unremitting toil—no litigation of recent years was so bitterly contested—operated to save the State of New York from paying back to the corporations affected by this statute approximately \$60,000,000.

The very nature of this litigation, involving so much revenue already collected and affecting the means which the Legislature and the tax experts upon whose judgment the State depends had devised equitably to tax manufacturing and mercantile corporations for the privileges they are accorded by the State, demanded the most strenuous defense of the act and compelled the Attorney-General to bring into play every agency within his command.

This decision by the Court of Appeals checkmates the efforts of manufacturing and mercantile corporations to recover all corporate franchise taxes paid the State for the last three years. It represents the culmination of a series of attacks from all directions seeking to wreck this new method of taxing corporations for the right of operating in this State. The opinion written by Judge Cardozo sustains the act in its entirety, except in those portions which refuse to allow the corporations to include stock and bond

holdings among their assets. In many instances assets of this nature were held outside the State, and the court directed that they shall receive recognition as property-earning income outside the State's jurisdiction.

Judge Cardozo with whom Judges Chase, Crane, Andrews and Pound concur in upholding the act thus explains the duty of the court to expunge the minor offending features and to sustain the basic principles upon which the act rests:

"I find it unbelievable that a Legislature willing to impose a tax with those invalid items in, (interest on bonds held outside the State and the limitation of stock holdings to 10 per cent in the allocation of assets) would be unwilling that the tax should stand if those items were out. Undoubtedly, it wished them in, if it had the legal right to keep them. To say that does not mean that rather than lose them it would throw the project to the winds. Laws are not to be sacrificed by courts on the assumption that legislation is the play of whim and fancy. A doctrinaire emphasis on the possible rather than the probable would forbid severance at all times. No doubt it is easy, sheltering ourselves behind some implacable tenet of separation of governmental powers, to insist upon a certainty impossible of attainment. We do small service to the state by so intransigent a pose. Our right to destroy is bounded by the limits of necessity. Our duty is to save unless in saving we pervert. When all the world can see what sensible legislators in such a contingency would wish that we should do, we are not to close our eyes as judges to what we must perceive as men. This need is all the greater in a field where the law is in a stage of transition and readjustment. With the lines so blurred and vague between the lawful and the unlawful, the most honestly conceived and carefully developed system of assessment may involve some element of value beyond the reach of the taxing power. I will not readily impute a desire to place the revenues of the State in jeopardy by the sacrifice of the whole whenever there is failure of a part."

It would seem that this decision will operate to deter any further assaults upon the constitutionality of the Corporation

Income Tax and will enable the Legislature to proceed upon assured ground in the matter of franchise taxation.

SUPERSESSION

The incompleteness of the inquiries forbids my summarization or even suggestive comment upon the results of my designation by the Governor to present evidence to grand juries at extraordinary terms of the Supreme Court convened in the past year. Under executive direction it became the duty of the Attorney-General, superseding the District-Attorneys in both instances, to take charge of the grand jury investigations of evidences of gambling at Saratoga Springs and allegations of unlawful combinations, the activities and operations of which are alleged to have deterred building operations in the State. As I have indicated above, both investigations or trials of indictments growing out of them are still pending.

INTERNATIONAL BRIDGE CASE

The case of the *People v. The International Bridge Co.*, was finally decided by the United States Supreme Court in favor of the State on all points. The decision came after the case had been argued twice before the highest court. The bridge company had contended that chapter 666 of the Laws of 1915 amending its charter and requiring it to construct a roadway and footpath, which it had always had authority to construct, was unconstitutional in several respects. The courts all held the act constitutional. While the case was pending, and since its determination, the Bridge Company has been incurring the statutory penalties for failure to comply with the statute. From time to time new actions have been commenced to enforce these penalties, but prosecution of them to judgment has been delayed pending determination of the test case. The result of the determination will be to make it possible to compel the construction of the required roadway and footpath, and to collect the accrued penalties, amounting to date to over \$91,000.

STATE INCOME TAX

In the case of *Travis, Comptroller, v. Yale & Towne Mfg. Co.*, I succeeded in having the United States Supreme Court establish

the right of the State to impose income taxes upon non-residents. There were two main questions before the court. One was whether or not the State might grant to residents exemptions not granted to non-residents. The court held that such an exemption made an unconstitutional discrimination, but the Legislature had eliminated the discrimination by chapter 191 of the Laws of 1920 before the Supreme Court rendered its decision. The other question was whether the State had the power to impose income taxes on non-residents at all.

This question was far more vital and important to the State than the first one, involving taxes amounting, under the present **rates of income taxation**, to over \$4,000,000 a year. The Supreme Court upheld the right of the State to tax non-residents, and to enforce the tax against their persons, property or occupations within the State. There were several minor questions before the court, on the validity of methods of enforcement of the tax and the deductions from gross income allowed to non-residents. All these minor questions were decided in favor of the State.

GENERAL LINE OF WORK

A great deal of work has been done in carrying out the provisions of the Workmen's Compensation Law in prosecuting appeals which were taken to the higher courts from the awards of the State Industrial Commission. During the year 216 appeals were argued in the Appellate Division, of which 108 were affirmed, 48 reversed, 47 remitted to the Commission, 11 modified, 1 dismissed and 1 certified question answered.

In the Court of Appeals 31 cases were argued, of which 17 were affirmed, 7 reversed, 4 remitted to the Commission and 2 modified.

In the United States Supreme Court 1 case, which was argued in 1919, was reversed.

The Title Bureau during the year 1920 approved title to property involved in barge canal, barge canal terminals, forest preserve, lands covered by loan commissioners mortgages, lands under navigable waters, bridges between New York and Pennsylvania, tunnel between New York and New Jersey, amounting to about \$4,000,000, or more than a \$1,000,000 in.

excess of 1919. In all 366 titles were examined and the volume of work exceeded that of any previous year. The greatest volume of the work in this line was in connection with the title to lands being acquired for State park purposes in the Adirondack and Catskill parks. Eleven bridges connecting the State of New York and Pennsylvania are to be acquired and during the year it was necessary to prepare descriptions of the bridge approaches and lands desired in addition to examining the titles. For the New York-New Jersey tunnel at least 60 parcels of land and easement rights in other lands will be necessary for the approach to the tunnel on the New York side.

That department of my office which is devoted entirely to the disposition of claims filed in the Court of Claims against the State of New York has been very successful in its efforts to protect the State. During the year claims aggregating \$11,839,570.48, representing 383 claims, were tried in the Court of Claims. Of this number 142 claims were dismissed with no award and the total amount awarded amounted to \$1,678,696.35, representing a considerable reduction from the amounts originally claimed in cases where any award was made.

The work involved in connection with the affairs of the mentally incompetent, both civil and criminal, confined in the several State hospitals, has been greatly increased by the duty of looking after the interests of the soldiers who became mentally unbalanced as the result of service in the World War. Approximately five hundred cases have passed through the hands of this office, and all possible effort has been made through the agency of committee appointments to adjust the affairs of these men, including the interests of those dependent upon them and entitled to certain compensation through the War Risk Bureau. By my direction, preference has been given to the matters of insane soldiers, with the result that the co-operation between the Federal Department and this office has greatly facilitated the ends sought.

The maintenance collected for the year 1920 shows a total of \$260,961.35. The disbursements collected in the matter of committee proceedings conducted totals \$5,213.50. Seven hundred and ninety-seven committees were appointed and 337 matters in Surrogate's Court, in which patients were interested, have received attention, together with 398 miscellaneous actions and

proceedings in which the interests of patients have been protected. The usual number of writs of habeas corpus have been before the courts.

A large number of proceedings are handled each year by that Bureau of my Department which is devoted entirely to looking after the special franchise proceedings. There are now pending in the courts, outside of New York city, 1,600 proceedings and in the city of New York alone there are some 200 proceedings pending. Some 400 proceedings were settled during the year 1920, a few of them being in the final process of adjustment at this time. Twenty (20) proceedings went to the Appellate Division and were argued during the year and 5 cases were argued in the Court of Appeals. About 200 proceedings are now being tried in various parts of the State by my deputy who is especially assigned to this line.

There has been a substantial increase in the volume of work done in my New York city bureau within the past year. The transaction of what might be termed the regular business of this Bureau has been rendered difficult from time to time because of the necessity of assigning deputies to work with various legislative committees and on their special assignments. One of my deputies from this Bureau was engaged during the greater part of the year, first with the Lusk Legislative Investigating Committee on Socialist and radical activities and later with the legislative proceedings having to do with the expulsion of Socialist members and finally with the Lockwood Investigating Committee on housing conditions in the city of New York. Another one of my deputies has acted as attorney for the legislative committee making inquiry into the Farmingdale School of Agriculture, and has also been active in the prosecution of violations of the Election Law. The Prison Commission has conducted certain investigations which have been materially assisted by another deputy from this office; all of which indicates the amount of what might be termed outside work in addition to the regular assignments. Two cases of considerable importance involving the constitutionality of the regulation of rent in the city of New York have been before the Appellate Division and at this time are pending in the Court of Appeals. Briefs were prepared and argument made by a deputy from this Bureau.

The Legislature at its special session in September appropriated \$3,000,000 for the construction of a State Military Hospital to be leased to the Federal government for the care of veterans of the late World War, suffering from mental and nervous diseases. By the Act the Attorney-General was made a member of this Commission and the deputy in charge of my New York city Bureau has acted as counsel to the Commission under my direction and conducted a large part of the negotiations between the Commission and Federal authorities.

While I have continued the designation of the corporation counsel of the city of New York to defend the proceedings brought to contest assessments in New York city made under the Special Franchise Tax Law, my Bureau in New York city has handled the major portion of the work making inquiry into all proposed adjustments or settlements, all papers received from the State Tax Commission in these New York city proceedings being carefully gone over in my New York office and passed upon before any of them are forwarded to the corporation counsel. This has done away with the designation of special counsel and has also saved a large amount of work and money for the city of New York.

There has been a substantial increase in the number of applications made to register titles in the so-called Torrens Law Registration Act. During the past year some fifty of these applications have been passed upon by this Bureau. This involves a great deal of work as the titles to the property sought to be registered must be searched in each case.

The work of this branch of my Department during the past year has been in every way efficient and satisfactory and great credit is due to each deputy and employee of that Bureau.

Again, I want to express my thanks to my deputies and the other members of the Attorney-General's staff for the interest they have taken in the State's legal work, and the loyalty they have shown me. Without this devotion to duty and fidelity to the Attorney-General it would be well nigh impossible successfully to administer the great volume of work falling upon the office.

CHARLES D. NEWTON,
Attorney-General.

SUMMARY FOR THE YEAR 1920

RECEIPTS AND COLLECTIONS

Agricultural Bureau	\$45,960 87
Conservation Bureau	2,913 01
Hospital Bureau (Cash forwarded through this office)	14,215 41
Miscellaneous receipts:	
Corporation taxes	8,881 95
Mortgage tax	116 00
Stock transfer tax	2,902 55
United States Deposit Fund mortgages	273 59
Premiums State Insurance Fund	7,381 33
Estates of decedents	153,982 41
Penalties, violation Health Law	1,000 00
Penalties, violation General Business Law..	75 00
Motor vehicle fines	40 00
Fees collected	1 00
Costs in actions and proceedings	4,615 14
Rent from escheated estates	784 07
Refunds — Salaries	299 48
Refunds — Costs and Disbursements	217 09
Refunds — Overcharge in freight shipment, Highway Department	5,230 60

Total amount of money recovered for

State by this Department \$248,589 50

Total number of new proceedings in Supreme Court in which this Department appeared	2,198
Mortgage foreclosures	440
Partitions	65
Actions against State officials	36
Voluntary dissolutions	64
Sequestrations	11
Miscellaneous (mechanics' liens, habeas corpus, damages, etc.)	154
Prosecutions under Conservation Law	40

Number of motions at Special Term in which this Department appeared	301
Number of proceedings in Surrogate's Court.....	801
Number of cases argued in Court of Appeals.....	45
Decisions in favor of State.....	25
Decisions against State.....	14
Undecided	6
Number of cases argued in Appellate Division.....	238
Decisions in favor of State.....	118
Decisions against State.....	60
Undecided or modified.....	60
Number of cases argued in United States Supreme Court.	3
Decisions in favor of State.....	2
Decisions against State.....	1
Number of claims tried in Court of Claims.....	383
Amount claimed	\$11,839,570 48
Amount awarded	1,678,696 35
Number of claims dismissed with no award	142
Amount of dismissed claims.....	\$1,405,982 84
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Number of bonds examined	832
Number of contracts examined	157
Consents and agreements for the withdrawal of retained percentages, work for various State constructions.....	9
Number of legal papers and proceedings for bond issues by cities, etc	7
Number of insurance charters examined	84
Number of certificates of incorporation examined.....	1
Number of applications presented to the Land Board and examined	55
Number of titles of land examined for Barge canal, term- inals, forest preserve, etc.....	366
Written formal opinions furnished during the year (ex- cluding communications, formal and informal, to the Commissioners of the Land Office).....	64
Written opinions furnished to Commissioners of the Land Office	26

Applications for leave to commence actions in the name of the people presented to this Department.....	21
Hearings held upon applications for leave to commence actions	11

BUREAU OF AGRICULTURAL AFFAIRS

The total number of violations referred to this office by the Department of Farms and Markets during the year of 1920 was	1,787
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The amount recovered for penalties and in satisfac- tion of judgments and paid over to the State Treasurer was	\$45,960 87
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Detailed monthly reports are on file in this office with the deputy in charge of this bureau and at the office of the Department of Farms and Markets.

PROCEEDINGS PENDING IN APPELLATE COURTS

COURT OF APPEALS

Belmar Contracting Company, Inc., Respondent, v. the State of New York, Appellant. (Damages—Construction of State Highway No. 5574. To be argued.)

People ex rel. Metropolitan Life Insurance Company, Relator-Respondent, v. Walter H. Knapp, et al., constituting the State Tax Commission of the State of New York, Respondent-Appellant. (Franchise tax assessment. To be argued.)

Eugene M. Travis, as Comptroller of the State of New York, Plaintiff-Appellant, v. American Cities Company, The United Gas and Electric Corporation, and Guaranty Trust Company of New York, Defendants-Respondents. (Stock Transfer Tax. To be argued.)

Cooper-Snell Company, Claimant, v. The State of New York, Appellant. (Damages on State Highway. To be argued.)

Dudley P. Babcock, Claimant-Respondent, v. The State of New York, Defendant-Appellant. (Personal Injury. To be argued.)

Frisbie & Stansfield Knitting Company, Claimant-Appellant, v. State of New York, Defendant-Respondent. (Appropriation of Land.)

Peoples Gas & Electric Company of Oswego, New York, Claimant-Respondent, v. the State of New York, Defendant-Appellant. (Damages for water rights. To be argued.)

The People of the State of New York, Plaintiff-Appellant, v. George H. Davis, Defendant-Respondent. (Failure to report tubercular cows. To be argued.)

The People of the State of New York, Plaintiff-Appellant, v. National Security Company, Defendant-Respondent. (Submitted controversy on tax question. To be argued.)

The People of the State of New York, Plaintiff-Respondent, v. Albert Peterson, Defendant-Appellant. (Improper labeling of nut margarine. To be argued.)

The Delaware and Hudson Company, Claimant-Appellant, v. the State of New York, Defendant-Respondent. Claim No. 13969. (Damage to railroad bridge. To be argued.)

The Delaware and Hudson Company, Claimant-Appellant, v. the State of New York, Defendant-Respondent. Claim No. 13970. (Damage to railroad bridge. To be argued.)

Lewis E. Carr, et al., Claimants-Appellants, v. the State of New York, Defendant-Respondent. (Claims for services as counsel and witnesses in investigation of J. P. Allds as Senator. To be argued.)

The Burt Olney Canning Company, Claimant-Appellant, v. the State of New York, Defendant-Respondent. (Damages to property by flooding. To be argued.)

Amos D. Bridge's Sons, Incorporated, Claimant-Appellant, v. the State of New York, Defendant-Respondent. (Damages on highway contract. To be argued.)

Addison M. Sherman, Plaintiff-Appellant, v. Richmond Hose Company No. 2, Bankers Trust Company, etc., Defendants-Respondents. (Construction of Will of Adelaide Richmond Kenny, deceased. To be argued.)

Taggart's Paper Company, Claimant-Appellant, v. the State of New York, Defendant-Respondent. (Appropriation. To be argued.)

Silver Bathing Pavilion, et al., Respondent, v. Egburt E. Woodbury, as Attorney-General of the State of New York, et al., Appellants. (Injunction to restrain defendants from interfering with plaintiffs' possession of lands between high and low water mark at Coney Island.

Appellate Division — First Department

People ex rel. Durham Realty Company, Appellant, v. Edward B. LaFetra, as Justice of Supreme Court, Respondent. (Constitutionality of rent law. Argued but not decided.)

People ex rel. Brixton Operating Corporation, Appellant, v. Edward B. LaFetra, as justice of Supreme Court, Respondent. (Constitutionality of rent law. Argued but not decided.)

In re Application to open Melrose avenue in City of New York; City of New York, Appellant. (Damages in connection with opening Melrose avenue in connection with case of People v. Tuthill. To be argued.)

The Bronx Gas & Electric Company v. the Public Service Commission of the State of New York, First District, et al., Appellants. (Injunction — rate for gas. To be argued.)

Appellate Division — Second Department

The People of the State of New York, Plaintiff-Appellant, v. Brooklyn Union Gas Company and Brooklyn Edison Company, Inc., Defendant-Respondent. (Injunction — to abate nuisance. To be argued.)

In the Matter of the Application for the Commitment of Sadie Evans, an alleged Mentally Defective Person. (Habeas corpus. To be argued.)

Appellant Division — Third Department

The People of the State of New York, Plaintiff-Appellant, v. The New York Central Railroad Company, et al., Respondent. (Rate of fare. To be argued.)

Michael J. Callanon and Charles H. Prescott, Claimants-Appellants, v. the State of New York, Defendant-Respondent. (Insurance under Workmen's Compensation Law on State Highway Contract. To be argued.)

The People of the State of New York on the relation of George A. Stafford, Relator, v. Eugene M. Travis, as Comptroller of the State of New York, Respondent. (Certiorari to review personal income tax. To be argued.)

The People ex rel. Frank E. Dawley, Individually, and as President of the American Karakul Fur Sheep Co., Inc., Relator-Respondent, v. Charles S. Wilson, et al., Respondent-Appellant. (Certiorari — Damages for sheep killed. To be argued.)

Daniel J. Mead, Claimant-Appellant, v. the State of New York, Defendant-Respondent. (Damages to crops. To be argued.)

The People of the State of New York, ex rel. New York Life Insurance Company, Relator, v. M. J. Walsh, John J. Merrill, James D. Smith, constituting the State Tax Commission and State Tax Department, Respondent. (Certiorari to review tax. To be argued.)

Matteo Lavenia, Claimant-Appellant, v. The State of New

York, Defendant-Respondent. (Personal injury at sham battle. To be argued.)

The People of the State of New York on the relation of Gorham Manufacturing Company, Relator, v. State Tax Commission, Respondent. (Certiorari to review mortgage tax. To be argued.)

The People ex rel. Bass, Ratcliff & Gretton, Limited, Relator, v. State Tax Commission, Respondent. (Certiorari to review franchise tax. To be argued.)

The People ex rel. Martha Mead, Relator-Respondent, v. Ethan A. Nevin, as Superintendent of the State Custodial Asylum for Feeble-Minded Women at Newark, N. Y., Appellant. (Habeas corpus. To be argued.)

William B. Armstrong Company, Claimant-Appellant, v. The State of New York, Defendant-Respondent. (Breach of contract. To be argued.)

Fulton Engineering Company, Inc., Claimant-Appellant, v. The State of New York, Defendant-Respondent. (Damages on State highway contract. To be argued.)

Andrew Lewis, as Administrator of the goods, chattels and credits of Julius Lewis, deceased, Claimant-Respondent, v. The State of New York, Defendant-Appellant. (Personal injury. To be argued.)

Wertie Lee Deyoc, as Executrix of the Last Will and Testament of Augustus Deyoc, deceased, Claimant-Appellant, v. The State of New York, Defendant-Respondent. (Personal injury. To be argued.)

Albany Southern Railroad Company, Claimant-Respondent, v. The State of New York, Defendant-Appellant. (Refund on stock transfer tax stamps. To be argued.)

Henry Dufel, Claimant-Respondent, v. State of New York, Defendant-Appellant. (Damages to crops. To be argued.)

Chicago Great Western Railroad Company, Claimant-Appellant, v. State of New York, Defendant-Respondent. (Refund for stock transfer tax stamps. To be argued.)

People ex rel. Theron M. Ripley, Relator-Respondent, v. Frederick S. Greene, as State Commissioner of Highway, Respondent-Appellant. (Reinstatement. To be argued.)

People ex rel. Margaret Haskin, Relator-Respondent, v. Superintendent and Managers of the New York State Training School for Girls at Hudson, N. Y., Respondent-Appellant. (Habeas corpus. To be argued.)

Ferguson Contracting Company, Claimant-Appellant, v. The State of New York, Defendant-Respondent. (Claim on Barge canal contract. To be argued.)

First Construction Company of Brooklyn, Claimant-Respondent, v. State of New York, Defendant-Appellant. (Permanent appropriation of land for Barge canal. Argued but not decided.)

St. Lawrence Construction Company, Inc., Claimant-Appellant, v. The State of New York, Defendant-Respondent. (Amount due on highway contract. To be argued.)

In the Matter of the Judicial Settlement of the account of Carl L. Chamberlin; The People of the State of New York, Appellant. (Settlement of account of administrator. To be argued.)

Sylvester B. Tripp, Claimant-Appellant, v. The State of New York, Defendant-Respondent. (Breach of contract, Barge canal contract 7-A. To be argued.)

The People of the State of New York, ex rel. Newman-Andrew Company, Relator, v. Walter H. Knapp, et al., constituting State Tax Commission, Respondent. (Certiorari to review tax assessment. To be argued.)

Horrocks Desk Company, Claimant-Appellant, v. State of New York, Defendant-Respondent. (Damage to property by flooding. To be argued.)

Charles V. Platt, Claimant-Appellant, v. State of New York, Defendant-Respondent. (Breach of contract. To be argued.)

Michael Wisnock and Mary Wisnock, Claimant-Appellant, v. the State of New York, Defendant-Respondent. (Negligence. To be argued.)

Mary R. Williams, Claimant-Appellant, v. The State of New York, Defendant-Respondent. (Damage to property from negligence in maintaining State dam. To be argued.)

Elmer E. Harter, Claimant-Appellant, v. State of New York, Defendant-Respondent. (Damage to crops. To be argued.)

Joseph Derrick, Claimant-Appellant, v. The State of New York, Defendant-Respondent. (Damage to crops. To be argued.)

Herkimer Lumber Company, Claimant-Respondent, v. State of New York, Defendant-Appellant. (Appropriation of land. To be argued.)

Herkimer Lumber Company, Claimant-Respondent, v. State of New York, Defendant-Appellant. (Appropriation of land. To be argued.)

Appellate Division—Fourth Department

Nettie M. Barnhart, et al., Claimants-Appellants, v. The State of New York, Defendant-Respondent. (Claim for damages to and depreciation of property—Barge canal. To be argued.)

Empire State Railroad Corporation, Claimant-Appellant, v. The State of New York, Defendant-Respondent. (Damages to road bed. To be argued.)

Ida Lorich, Claimant-Respondent, v. The State of New York, Defendant-Appellant. (Personal injury. To be argued.)

Harold Muma, Claimant-Respondent, v. The State of New York, Defendant-Appellant. (Personal injury. To be argued.)

Morrison & Quinn, Inc., Claimant-Appellant, v. The State of New York, Defendant-Respondent. (Breach of contract. To be argued.)

George H. Odell, as Administrator of the estate of Harlow B. Odell, deceased, Claimant-Appellant, v. The State of New York, Defendant-Respondent. (Personal injury. To be argued.)

City of Little Falls, Claimant-Respondent, v. State of New York, Defendant-Appellant. (Permanent appropriation of land. To be argued.)

The New York Central Railroad Company, Plaintiff-Appellant, v. The People, et al., Defendants-Respondents. (Condemnation of land. To be argued.)

American Woolen Company, Claimant-Appellant, v. State of New York, Defendant-Respondent. (Permanent appropriation of property. To be argued.)

Langan Construction Corporation, Claimant-Respondent, v. The State of New York, Defendant-Appellant. (Claim on highway contract, Erie County. To be argued.)

In the Matter of the Probate of the heirship of Belle E. Elliot to certain lands of which she died seized, Ralph P. Elliott, Appellant. (Escheat. To be argued.)

Dorothy Green, Claimant-Appellant, v. State of New York, Defendant-Respondent. (Negligence. To be argued.)

George Pronoth, as Executor of the Last Will and Testament of William Pronoth, deceased, Claimant-Appellant, v. State of New York, Defendant-Respondent. (Damage to property. To be argued.)

ACTIONS AND PROCEEDINGS INSTITUTED AGAINST STATE OFFICIALS DURING THE YEAR 1920

- Jan. 8. Supreme Court — Albany County. In the Matter of the Application of Walsh Construction Company for a writ of mandamus v. Edward S. Walsh, Superintendent of Public Works of the State of New York. (Mandamus. To restrain disposition of draft deposited with bid. Discontinued.)
19. Supreme Court — Albany County. The People of the State of New York v. Thomas H. McDonough and Massachusetts Bonding and Insurance Company. (Unlawful use of State Funds. Actions discontinued. Defendant paid Trustees of Public Buildings.)
15. Supreme Court — Albany County. J. Berton Allen v. George A. Smith as Superintendent of Central Islip State Hospital. (Maintenance as assistant physician at hospital. Complaint dismissed.)
30. Supreme Court — Queens County. The People of the State of New York ex rel. Edgar Weaver v. State Civil Service Commission. (Mandamus. Position of Title Examiner, Greene County. Motion for writ denied.)
- Feb. 11. Supreme Court — Richmond County. New York & Richmond Gas Company v. Lewis Nixon as and constituting the Public Service Commission of the State of New York for the First District; Charles D. Newton as Attorney-General of the State of New York; and Joseph Maloy as District Attorney of the County of Richmond. (Injunction to

restrain enforcement of Ch. 125, L. 1906, providing that rate for gas shall not be over \$1. per M. Pending.)

- Feb. 20. Supreme Court — Albany County. The People of the State of New York ex rel. Union Bag & Paper Corporation v. Walter H. Knapp, John J. Merrill and M. J. Walsh constituting the State Tax Commission of the State of New York. (Certiorari. To review determination of Tax Commission under Art. 9-A of Tax Law of April, 1919.)
- March 25. Supreme Court — Albany County. In the Matter of the Application of Theron M. Ripley for a writ of Mandamus to compel reinstatement as Division Engineer in the Department of Highways of the State of New York. (Mandamus. Pending.)
20. Supreme Court — New York County. The People of the State of New York ex rel. New York Fire Insurance Exchange v. Jesse S. Phillips as Superintendent of Insurance of the State of New York. (Certiorari. To review determination in matter of complaint, W. F. Conran. Pending.)
- April 15. District Court of the United States, Southern District of New York. The Woodhaven Gas Light Company v. Lewis Nixon, constituting the Public Service Commission of the State of New York, First District; Denis O'Leary, District Attorney of Queens County, and Charles D. Newton as Attorney-General of the State of New York. (Gas rate. Pending.)
15. District Court of the United States, Southern District of New York. Richmond Hill & Queens County Gas Company v. Lewis Nixon, constituting the Public Service Commission of the State of New York, First District; Denis O'Leary, District Attorney of Queens County, and Charles D. Newtown as Attorney-General of the State of New York. (Gas rate. Pending.)

- April 15. District Court of the United States, Southern District of New York. The Newton Gas Company v. Lewis Nixon, constituting the Public Service Commission of the State of New York, First District; Denis O'Leary, District Attorney of Queens County, and Charles D. Newton as Attorney-General of the State of New York. (Gas rate. Pending.)
22. Supreme Court — Albany County. Lewis H. Hewitt v. Michael O'Brien and Frederick Stewart Greene as Commissioner of Highways of the State of New York. (Payment of earned and unpaid funds on contract for road 1435. Judgment for plaintiff.)
- May 6. District Court of the United States, Southern District of New York. The Flatbush Gas Company v. Lewis Nixon, constituting the Public Service Commission of the State of New York, First District; Harry E. Lewis as District Attorney of Kings County, and Charles D. Newtown as Attorney-General of the State of New York. (Gas rate. Pending.)
- June 2. Supreme Court — Albany County. In the Matter of the Application of Robert W. Smith Corporation for a Peremptory Writ of Mandamus v. Frederick S. Greene, Commissioner of Highways of the State of New York. (Mandamus, Re County Highway Contract No. 1208, Suffolk County. Application denied.)
- July 20. District Court of the United States for the Northern District of New York. The New York Central Railroad Company v. The Public Service Commission of New York, Second District, and Charles D. Hill, Frank Irvine, Joseph A. Kellogg, George R. Van Namee and John A. Barhite, as members and constituting the Public Service Commission of the State of New York, and Ledyard P. Hale. (Two-cent passenger fare. Pending.)

- July 28. Supreme Court — Albany County. The People of the State of New York ex rel. Gorham Manufacturing Company v. State Tax Commission. (Certiorari. Mortgage tax. Pending.)
- Aug. 17. Supreme Court — Albany County. The People of the State of New York ex rel. New York Life Insurance Company v. M. J. Walsh, John J. Merrill and James D. Smith, constituting the State Tax Commission, and State Tax Department. (Certiorari. To review tax assessment. Pending.)
17. Supreme Court — New York County. The People of the State of New York ex rel. Bass, Ratcliff & Gretton, Ltd., Relator, v. State Tax Commission. (Certiorari. To review tax assessment. Pending.)
28. Supreme Court — Oneida County. The People of the State of New York ex rel. William W. Woglom v. Charles Bernstein, as Superintendent of Rome State School. (Mandamus. Reinstatement as junior assistant physician. Writ granted.)
30. Supreme Court — Albany County. The People of the State of New York ex rel. Magnus Company, Inc., v. Michael J. Walsh, John J. Merrill and James D. Smith, as Commissioners, constituting the State Tax Commission of the State of New York, and Michael J. Walsh, president of said State Tax Commission. (Certiorari. To review determination of tax under Article 9-A of Tax Law for 1918. Pending.)
- Oct. 18. Supreme Court — Albany County. In the Matter of the Application of John P. Cohalan for a Writ of Peremptory Mandamus Addressed to Eugene M. Travis as Comptroller of the State of New York. (Mandamus. To compel payment for services as Surrogate. Pending.)
18. Supreme Court — Albany County. In the Matter of the Application of George A. Slater for a Writ of Peremptory Mandamus Addressed to Eugene M. Travis as Comptroller of the State of New York.

(Mandamus. To compel payment for services as Surrogate. Pending.)

- Nov. 9. Supreme Court — Erie County. The People of the State of New York ex rel. Frederick C. Gratwick and Mildred G. Crane v. Harry C. Walker, Thaddeus C. Sweet, Francis M. Hugo, Eugene M. Travis, James L. Wells, Charles D. Newton and Frank M. Williams, constituting the Commissioners of the Land Office. (Certiorari. To review determination granting application of Frederick Barnheisel for land under water. Pending.)
20. Supreme Court — New York County. In the Matter of the Application of Russian National St. Vladimir Home for an order directing the Superintendent of Banks to deliver over to it certain 4 per cent bonds on the city of New York of the par value of \$6,000. (Pending.)
- Dec. 4. District Court of the United States, Southern District of New York. Charles Leopold & Company, Inc., v. Edward Swann, District Attorney in and for the County of New York; Charles D. Newton, Attorney-General of the State of New York, and Herbert E. Sisson, Commissioner of Excise of the State of New York. (Constitutionality of New York State Liquor Tax Law. Pending.)
7. Supreme Court — New York County. In the Matter of the Application of John B. Genovese for a Peremptory Writ of Mandamus. (Mandamus. Investigator in State Industrial Commission. Motion denied.)
9. District Court of the United States, Southern District of New York. The Federal Products Company v. Herbert S. Sisson, Commissioner of Excise of the State of New York; Charles D. Newton, Attorney-General of the State of New York, and Edward Swann, District Attorney in and for the County of New York. (Injunction. Constitutionality of Prohibition Law. Pending.)

- Dec. 9. District Court of the United States, Southern District of New York. The American Distilling Company of Pekin, Illinois, and the American Distilling Company of New York, Inc., v. Herbert S. Sisson, Commissioner of Excise of the State of New York; Charles D. Newton, Attorney-General of the State of New York, and Edward Swann, District Attorney in and for the County of New York. (Injunction. Constitutionality of Prohibition Law. Pending.)
13. United States District Court, Northern District of New York. Lehigh Valley Railroad Company v. Public Service Commission, Second District of the State of New York, and Charles B. Hill, Frank Irvine, John A. Barhite, Joseph A. Kellogg and George R. Van Namee, as members of and constituting the Public Service Commission; Charles D. Newton as Attorney-General of the State of New York and Ledyard P. Hale, individually and as counsel to said Public Service Commission, Second District of the State of New York. (Injunction — re rate of fare. Pending.)
13. United States District Court, Northern District of New York. The Lehigh & Hudson River Railroad Company v. Public Service Commission, Second District of the State of New York, etc.; Charles D. Newton as Attorney-General of the State of New York and Ledyard P. Hale, individually and as counsel to said Public Service Commission. (Injunction — re rate of fare. Pending.)
13. United States District Court, Northern District of New York. New York, Ontario and Western Railway Company v. Public Service Commission, Second District of the State of New York, etc.; Charles D. Newton as Attorney-General of the State of New York and Ledyard P. Hale, individually and as counsel to said Public Service

Commission. (Injunction — re rate of fare. Pending.)

- Dec. 13, United States District Court, Northern District of New York. Erie Railroad Company v. Public Service Commission, Second District of the State of New York, etc.; Charles D. Newton as Attorney-General of the State of New York and Ledyard P. Hale, individually and as counsel to said Public Service Commission. (Injunction — re rate of fare. Pending.)
13. United States District Court, Northern District of New York. New Jersey & New York Railroad Company v. Public Service Commission, Second District of the State of New York, etc.; Charles D. Newton as Attorney-General of the State of New York and Ledyard P. Hale, individually and as Counsel to said Public Service Commission. (Injunction — re rate of fare. Pending.)
18. District Court of the United States, Southern District of New York. Belt Line Railway Corporation v. Charles D. Newton as Attorney-General of the State of New York, Edward Swann as District Attorney in and for the County of New York and Alfred M. Barrett, constituting the Public Service Commission of the State of New York for the First District. (Injunction — re rate of fare. Pending.)
21. United States District Court — Northern District of New York. The Delaware, Lackawanna & Western Railroad Company v. Public Service Commission, Second District of New York, etc.; Charles D. Newton as Attorney-General of the State of New York and Ledyard P. Hale, individually and as counsel to said Public Service Commission. (Rate of fare. Pending.)
23. District Court of the United States, Northern District of New York. The Delaware & Hudson Company, Greenwich and Johnsonville Railway

Company and Schoharie Valley Railway Company v. Public Service Commission, Second District; Charles D. Newton as Attorney-General et al. (Rate of fare. Pending.)

MISCELLANEOUS ACTIONS AND PROCEEDINGS
COMMENCED DURING 1920

- Jan. 5. Supreme Court — Albany County. In the Matter of the Application of The Webster Apartments to amend its certificate of incorporation. (Application granted.)
6. Supreme Court — Bronx County. In the Matter of the Petition of Henry L. Phillips of 157 West 79th Street, New York City, to register title to 824 and 826 Elton Avenue. (Judgment of registration granted.)
6. Supreme Court — Albany County. The People of the State of New York v. Adolph Dieck. (Premium State Insurance Fund. Settlement made.)
6. Supreme Court — Albany County. The People of the State of New York v. Gordin D. Hull. (Premium State Insurance Fund. Pending.)
6. Supreme Court — Albany County. The People of the State of New York v. Harvey George. (Premium State Insurance Fund. Pending.)
7. Supreme Court — Albany County. The People of the State of New York v. S. Dale Hunter. (Premium State Insurance Fund. Pending.)
7. Supreme Court — Albany County. The People of the State of New York v. Arthur Colvill. (Premium State Insurance Fund. Pending.)
9. Supreme Court — Albany County. The People of the State of New York v. Bert J. Brooker and Charles G. Doolittle. (Premium State Insurance Fund. Pending.)
9. Supreme Court — Albany County. The People of the State of New York v. Roy Long. (Premium State Insurance Fund. Pending.)

- Jan.
9. Public Service Commission, Second District. Edward S. Walsh as Superintendent of Public Works of the State of New York v. New York Central Railroad Company. As to operation of railroad tracks at Erie Basin, Buffalo. (Pending.)
 10. Supreme Court — Albany County. The People of the State of New York v. Leonardo Inglese. (Premium State Insurance Fund. Premium paid.)
 10. Supreme Court — Albany County. The People of the State of New York v. William J. M. Crennan. (Premium State Insurance Fund. Premium paid.)
 12. Supreme Court — Albany County. In the Matter of the Petition of Alice M. McDonnell (formerly Alice M. O'Brien) et al. of 375 West End Avenue, New York City, to register title to real estate. (Title registered.)
 12. Supreme Court — Albany County. The People of the State of New York v. William G. Dunlop. (Premium State Insurance Fund. Premium paid.)
 13. Supreme Court — Clinton County. The People of the State of New York ex rel. Jacob Bergman v. John B. Trombly, as agent and warden of Dannemora Prison. (Habeas Corpus.)
 13. Supreme Court — Clinton County. The People of the State of New York ex rel. Salvatore Comito v. John B. Trombly, as agent and warden of Dannemora Prison. (Habeas Corpus.)
 16. Supreme Court — Albany County. The People of the State of New York v. Arthur Hall. (Premium State Insurance Fund. Premium Paid.)
 20. Supreme Court — Albany County. The People of the State of New York v. Mary A. McGowan. (Premium on State Insurance Fund. Pending.)
 20. Supreme Court — Albany County. The People of the State of New York v. William W. Darling and Charles S. Darling. (Premium State Insurance Fund. Pending.)

- Jan. 21. Supreme Court — Kings County. In the Matter of the Petition of George F. Ketchum et al. residing at Warwick, N. Y., to register title. (Application denied without prejudice to renewal.)
24. Supreme Court — New York County. In the Matter of the Application of The New York County Registered Nurses Association for authority to change its name. (Application granted.)
27. Supreme Court — Queens County. In the Matter of the Petition of Joseph Sendek, residing at 311 East 26th Street, Manhattan, to register title to real property. (Pending.)
- Feb. 5. Supreme Court — New York County. In the Matter of the Petition of William L. Carns of 136 West 88th Street, New York City, to register title to real property. (Judgment of registration.)
5. Supreme Court — Westchester County. The People of the State of New York ex rel. John Myers v. Lewis E. Lawes as Agent and Warden of Sing Sing Prison. (Habeas Corpus. Writ dismissed.)
17. Supreme Court — Kings County. In the Matter of the Petition of Mary E. O'Malley of 1950 Dean street, Borough of Brooklyn, to register title to certain lands. (Application denied without prejudice to renewal.)
18. Supreme Court — Westchester County. Samuel M. Purdy et al. as Executor of the Estate of Fisher F. Valentine v. Patrick McCann et al. (Payment of money on deposit State Treasury. Order granted directing payment to petitioners.)
19. Supreme Court — New York County. The People of the State of New York v. General Carbonic Company, Title Guarantee & Trust Co., Edward H. Warren et al. (To revoke water grant. Two Actions. Pending.)
20. Supreme Court — Albany County. The People of the State of New York v. Charles G. Duffy

(Premium State Insurance Fund. Premium paid.)

Feb. 24. Supreme Court — Albany County. The People of the State of New York v. Morris Goldfarb. (Premium State Insurance Fund. Payment made.)

24. Supreme Court — Wyoming County. In the Matter of the Application for the appointment of a permanent receiver of the Warsaw Sanitarium Company in the place and stead of Edwin A. Miller deceased. (Application granted.)

25. Supreme Court — New York County. The People of the State of New York v. Esther A. Upson, Emily Upson et al. individually and as Executors and trustees under will of Stephen Upson deceased; Mary Upson, wife of Francis L. Upson, Jane Upson, wife of Stephen C. Upson, Serena Upson, Edward S. Upson and the City of New York. (To revoke water grant. Pending.)

25. Supreme Court — Albany County. The People of the State of New York v. Samuel W. Decker. (Premium State Insurance Fund. Premium paid.)

27. Supreme Court — Onondaga County. Alex Zanello v. Thomas P. B. Kennedy and State of New York. (Lien. Improvement Highway Contract, 5630. Pending.)

March 1. Supreme Court — Albany County. The People of the State of New York v. Morris Harrison. (Premium State Insurance Fund. Premium paid.)

1. Supreme Court — Albany County. The People of the State of New York v. William Adams Trucking Co., Inc. (Premium State Insurance Fund. Judgment for plaintiff.)

3. Supreme Court — Bronx County. In the Matter of the Petition of Richard L. Johnson, 827 East 233

street, New York City to register title to real property. (Register title to real property. Application granted as to 32 ft. 6 in., in width front and rear, denied as to remainder.)

- March 3. Supreme Court — New York County. The People of the State of New York v. X-Ray Laboratories of New York, Inc. (Illegal practice of dentistry. Settlement made, Discontinued.)
3. Supreme Court — Albany County. The People of the State of New York v. George W. O'Reilly. (Premium State Insurance Fund. Pending.)
3. Supreme Court — Albany County. The People of the State of New York v. Jacob Marans et al. (Premium State Insurance Fund. Judgment for plaintiff.)
4. Supreme Court — Albany County. The People of the State of New York v. Abraham Elishewitz. (Premium State Insurance Fund. Settled.)
4. Supreme Court — Albany County. The People of the State of New York v. Andrews Tool Company. (Premium State Insurance Fund. Pending.)
5. Supreme Court — Albany County. The People of the State of New York v. August Druttman. (Premium State Insurance Fund. Premium paid.)
6. Supreme Court — Oneida County. James Kivlen v. Mary J. Kivlen et al. (Payment of money on deposit with State Treasurer. Order granted directing payment to petitioners.)
8. County Court — Kings County. (In the Matter of the Application of Antonio Gentile for an order cancelling and discharging a mortgage of record. Application granted.)
8. Supreme Court — Cayuga County. The People of the State of New York ex rel. Frank Smith v. Edgar S. Jennings as Warden and Agent of Auburn Prison. (Mandamus to compel certification of name for discharge from prison. Pending.)

- March** 8. Supreme Court — Cayuga County. The People of the State of New York ex rel. John Olsen v. Edgar S. Jennings as Agent and Warden of Auburn Prison. (Mandamus to compel certification of name for discharge from prison. Pending.)
13. Supreme Court — New York County. In the Matter of the amending of the certificate of incorporation of The Manhattan Navy Club, Inc. (To amend certificate. Application granted.)
16. Supreme Court — New York County. The People of the State of New York v. National Sugar Refining Company of New Jersey, The City of New York and The Williamsburgh Savings Bank. (To revoke water grant. Pending.)
16. Supreme Court — Queens County. The People of the State of New York v. Joseph H. Wichert, Elizabeth Wichert, his wife; The Dime Savings Bank of Williamsburgh. (To revoke water grant. Pending.)
17. Supreme Court — Bronx County. In the Matter of the Petition of Leopold Guttag to register title to real property. (Application denied until certain objections of Official Examiner are complied with.)
22. Supreme Court — Suffolk County. In the Matter of the Petition of Klein Fuel and Feed Company for authority to change name to Amityville Coal Corporation. (Discontinued.)
24. Supreme Court — Albany County. The People of the State of New York v. Fred Cordes. (Premium State Insurance Fund. Policy cancelled.)
24. Supreme Court — Queens County. In the Matter of the Petition of Margarette A. Shevlin residing at Palermo ave, Hollis, N. Y., to register title to real property. (Judgment of registration.)
25. Supreme Court — Appellate Division — First Department. In the Matter of the County Funds deposited with the Clerk of New York County

prior to 1891 and not turned over to the Chamberlain of the City of New York. (Order providing for transfer of funds made.)

March 25. Supreme Court—Albany County. The People of the State of New York v. Unadilla Valley Railway Company. (Premium State Insurance Fund. Pending.)

26. Supreme Court—Queens County. The People of the State of New York v. Charles G. Meyer et al. (To revoke water grant. Pending.)

27. Supreme Court—New York County. The People of the State of New York v. The Long Island Railroad Company. et al. (To revoke water grant. Pending.)

27. Supreme Court—New York County. In the Matter of the Application of the Fidelity Bank for an order declaring the business of the corporation closed. (Application granted.)

April 1. Supreme Court—Bronx County. Louis v. Fox et al. v. Louis v. Fox et al. (Construction of Will. Pending.)

6. Supreme Court—Westchester County. The People of the State of New York ex rel. George Lapp v. Lewis E. Lawes as agent and Warden of Sing Sing. (Habeas Corpus. Writ dismissed.)

7. Supreme Court—Albany County. In the Matter of the Application of Charles D. Newton, as Attorney-General of the State of New York for leave to commence action against the Criterion Food Company, Inc., a domestic corporation to procure a judgment vacating its charter etc. (Pending.)

9. Supreme Court—Bronx County. In the Matter of the Application of Charles D. Newton, Attorney-General of the State of New York for the payment of the award made for Parcel No. 2 in the Report of the Commissioners of Estimate and Assessment in a proceeding entitled, "In the Matter of the

Application of the City of New York relator to acquiring title etc., to the lands required for the opening and extending of Taylor street (or avenue) from East River to Westchester avenue in the 24th ward, Borough of Bronx, City of New York. (Pending.)

April 13. Supreme Court — Westchester County. The People of the State of New York ex rel. Joseph Mazzarese v. Lewis E. Lawes as Agent and Warden of Sing Sing Prison. (Habeas Corpus. Pending.)

13. Supreme Court — Kings County. In the Matter of the Petition of George W. Averill of Ocean Side, L. I., to register title of certain lands. (Judgment of registration granted.)

17 Supreme Court — New York County. Board of Missions of the Presbyterian Church in the United States of America v. Charles D. Newton as Attorney-General of the State of New York and Women's Board of Home Missions of the Presbyterian Church in the United States of America. (To transfer fund bequeathed for religious purposes. Pending.)

24. Supreme Court — Warren County. The People of the State of New York ex rel. Margaret Haskin v. The Managers and Superintendent of the New York State Training School for Girls at Hudson, N. Y. (Habeas Corpus. Pending in Appellate Division.)

Supreme Court — Albany County. The People of the State of New York v. New York and North Shore Traction Company. (Collection of Mortgage tax. Pending.)

28. Supreme Court — Albany County. The People of the State of New York v. R. E. King Shoe Manufacturing Co. (Premium State Insurance Fund. Pending.)

29. Supreme Court — Rockland County. In the Matter of the Petition of Edna S. Courtney of Suffern,

N. Y., to register title of real property. (Pending.)

April 29. Supreme Court — Rockland County. In the Matter of the Petition of Henry P. McKinney of Suffern, N. Y., to register title to real property. (Pending.)

30. Supreme Court — Albany County. The People of the State of New York v. Clermont Ice Company. (Premium State Insurance Fund. Settlement made.)

May 1. Supreme Court — Albany County. The People of the State of New York v. Finley Robertson Porter Company, Inc. (Premium State Insurance Fund. Premium Paid.)

3. Supreme Court — Albany County. The People of the State of New York v. Adirondack Diatomaceous Earth Co. (Premium State Insurance Fund. Pending.)

4. County Court — Westchester County. In the Matter of the Application for the commitment of Sadie Evans an alleged mentally defective person. (Pending in Appellate Division.)

5. Supreme Court — Erie County. James Fallon v. Andrew M. Stanwix. (Alleged assault by State Trooper. Pending.)

6. Supreme Court — Queens County. The People of the State of New York v. John W. Wainwright and Margaret Wainwright his wife and the City of New York. (To revoke Letters Patent. Pending.)

7. Supreme Court — United States District Court, Northern District of New York. Edward Thurston as Master Bailee of the Steam Canal Boat "Ashford" and her cargo v. Steam Tug "Betty" and Steam Tug "Schenectady" their engines, boilers, etc. (Libel. Pending.)

7. Supreme Court — New York County. Guaranty Trust Company of New York as Trustee etc. v.

- Harry W. Jessup et al. (Judicial settlement of account of trustee. Pending.)
- May** 7. Supreme Court — New York County. In the Matter of the Application of Hygrade Knitting Company, Inc., for an order amending its certificate of incorporation. (Application granted.)
10. Supreme Court — Westchester County. The People of the State of New York ex rel. Patrick Cassidy v. Lewis E. Lawes as Warden of Sing Sing Prison. (Habeas Corpus. Writ dismissed.)
12. Supreme Court — Kings County. The People of the State of New York v. Perfection Candy Company. (Dissolution. Pending.)
12. Supreme Court — Essex County. In the Matter of the Application of the Stevenson Society of America to amend its certificate of incorporation. (Application granted.)
14. Supreme Court — Richmond County. In the Matter of the Petition of Julius C. Muller, 1969 Richmond road, New York City, to register title to real property. (Pending.)
14. Supreme Court — Richmond County. In the Matter of the Petition of James H. Horigan, 1413 Richmond ave., Port Richmond, to register title to real property. (Registration denied.)
14. Supreme Court — Richmond County. In the Matter of the Petition of Margaret C. Sipp, Richmond Valley, to register title to real property. (Petition granted.)
19. Supreme Court — Queens County. In the Matter of the Petition of Thomas N. Dube, Washington, D. C. register title to real estate. (Petition granted.)
20. Supreme Court — New York County. Albert A. Cohen et al. v. Alice Hood Cohen et al. (Construction of Will. Action discontinued.)
20. Supreme Court — New York County. In the Matter of the Application of William F. Schneider, Clerk of New York County to strike from files

of his office amended declarations of the Union Home Builders. (Motion denied.)

May 24. Supreme Court — Kings County. People of the State of New York ex. rel. Abraham Goldstein v. Warden of Great Meadow Prison. (Habeas corpus. Writ dismissed.)

June 2. Supreme Court — Kings County. The People of the State of New York v. The Brooklyn Union Gas Company and Brooklyn Edison Co., Inc. (To abate nuisance and for injunction. Pending.)

14. Supreme Court — Queens County. In the Matter of the Petition of Fillipo Fazio and Anna, his wife, of Long Island City, New York to register title to real property. (Judgment of registration.)

14. Supreme Court — Monroe County. The People of the State of New York v. Louis F. Smoral. (Illegal practice of dentistry. Pending.)

21. Supreme Court — Albany County. The People of the State of New York v. Neptune Forwarding Company Inc. (To collect rental pier, Gowanus Terminal of Barge canal. Payment of \$500 made for rental. Action discontinued without costs.)

28. Supreme Court — Westchester County. Webster Deacon v. William Brundage et al. (Determine claim to real property. Pending.)

July 1. Supreme Court — Albany County. In the Matter of the Petition of The Horace Keane Aeroplane, Inc., to amend its certificate of incorporation. (Pending in Appellate Division.)

8. County Court — Queens County. Martha F. Latham v. Philip Kaucher et al. (Admeasurement of dower. Pending.)

10. Supreme Court — Kings County. In the Matter of the Application of The Lithuanian Workers' Literature Society, Inc., for amended certificate of incorporation. (Application granted.)

13. Supreme Court — Cattaraugus County. The People of the State of New York v. The Globe Indemnity

Company of New York. (Failure of James M. Hamilton Contracting Company to complete contract, Olean Creek. Pending.)

- July** 15. Supreme Court — Kings County. In the Matter of the Petition of Bertha Huisking of 521 East 8th Street, Brooklyn, N. Y., to register title to real property. (Application granted.)
20. Supreme Court — Bronx County. In the Matter of the Petition of Charles A. Weber to register title to certain lands. (Pending.)
21. Supreme Court — Wyoming County. George Christ, Sr., v. Elijah Kendall et al. (To cancel mortgage of record. Consented to application for judgment.)
27. Supreme Court — New York County. In the Matter of the Application of The Louisa Minturn Hospital for leave to transfer certain of its property to the City of New York. (Granted.)
28. Supreme Court — Albany County. In the Matter of the Petition of Mary E. Nellis of 1471 State Street, Schenectady, to register title to certain land. (Pending.)
- Aug.** 5. Supreme Court — Suffolk County. The People of the State of New York v. Henry C. Rowe. (To vacate letters patent. Pending.)
26. Supreme Court — Erie County. The People of the State of New York ex rel. Andrew Grenda v. E. S. Jennings, as warden and agent of Auburn Prison. (Habeas Corpus. Writ dismissed and prisoner remanded.)
- Sept.** 16. Supreme Court — Westchester County. James Patterson, as Executor of James S. Merritt, v. James M. Duffy et al. (Charitable Trust. Pending.)
17. Supreme Court — Bronx County. In the Matter of the Petition of William J. Gilon to register title to real property. (Pending.)
18. Supreme Court — Orange County. The People of the State of New York ex rel. Rachel Thomas v. Charles S. Little, as superintendent of Letchworth Village. (Habeas Corpus. Writ dismissed.)

- Sept. 18. Supreme Court — Orange County. The People of the State of New York ex rel. Wood in re Addie Lovewick v. Charles S. Little, as superintendent of Letchworth Village. (Habeas Corpus. Writ dismissed.)
21. Supreme Court — Kings County. Ida Kashinsky v. People and Unknown Heirs of Isidor Kashinsky. (To impress trust upon real estate. Discontinued as against the People of the State.)
21. Supreme Court — Albany County. The People of the State of New York v. Arthur W. Livingston. (Violation of Public Health Law. Fine paid and action discontinued.)
22. Supreme Court — Bronx County. Elise Spahr v. River Realty Company et al. (To reform deed. Discontinued as against the People of the State.)
22. Supreme Court — Queens County. In the Matter of the Petition of Charles P. Kimmey of 66 East 88th Street, New York City, to register title to real estate. (Pending.)
23. Supreme Court — Queens County. In the Matter of the Petition of Thomas Hollingsworth, 34 Dewey Avenue, Jamaica, N. Y., to register title. (Pending.)
25. Supreme Court — Bronx County. In the Matter of the Petition of Catherine Meighan of 3000 Third Avenue, New York City, to register title to realty. (Pending.)
27. City Court of Buffalo. The People of the State of New York v. Jerry M. Boyden. (Violation of Public Health Law. Fine paid and action in abeyance for one year.)
28. Supreme Court — Steuben County. Ray Muck v. R. H. Panzlau, individually and Department of State Police. (False arrest by State trooper. Pending.)
28. Supreme Court — Kings County. Maleha P. Bancroft v. George Duncan Bancroft et al. (Ad-measurement of dower. Pending.)

- Sept. 29. Supreme Court — Bronx County. In the Matter of the Petition of William F. Murray of 1965 Washington Avenue, New York City, to register title to certain lands. (Pending.)
- Oct. 2. Supreme Court — Albany County. The People of the State of New York v. Julius Brown. (Violation of Public Health Law. Fine paid and action discontinued.)
4. District Court of United States for District of Delaware. In the Matter of New York & Baltimore Inland Transportation Company, Bankrupt. (Pending.)
7. Supreme Court — New York County. J. Edward Ogden Company, Inc., v. The State of New York, Fulton Construction Company and The National Surety Co. (Mechanic's Lien. Terminal Freight House, Erie Basin, Pier 1, Buffalo. Discontinued.)
11. District Court of the United States, Southern District of New York. Marcus Brown Holding Company v. Arnold Pollak and Edward Swann as District Attorney of the County of New York in the State of New York. (Constitutionality of Ch. 951, L. 1920, Housing Law. Pending.)
11. Supreme Court — Cayuga County. In the Matter of the Application of Caroline Denzlinger for the release of Christina Finn from the Craig Colony for Epileptics. (Pending.)
15. Supreme Court — Nassau County. In the Matter of the Petition of Paul Hail of Cedarhurst, L. I., to register title to real property. (Pending.)
16. Supreme Court — Kings County. Bertha E. Ammarell v. Caroline Smith et al. (To clear title. Pending.)
16. Supreme Court — Onondaga County. In the Matter of the Application of the Alumni Association of the Syracuse Hospital for Women and Children to change its name to The Alumni Association of

the Syracuse Memorial Hospital. (Application withdrawn.)

Oct. 18. Supreme Court — Queens County. The People of the State of New York v. Halsey Realty Company and the City of New York. (To annul letters patent. Pending.)

18. Supreme Court — Queens County. The People of the State of New York v. National Varnish Company, The Barnard, Shaler & Hall Quarry Company et al. (To annul letters patent. Pending.)

20. United States District Court, Western District of New York. Martin J. McGahan and Margaret McGahan, as Administrators of the goods of Evelyn McGahan, Deceased. Libelants v. Queen City. (Libel. Pending.)

21. Supreme Court — Monroe County. The People of the State of New York ex rel. Samuel DeFazio v. Herbert H. Todd, Superintendent State School, Industry. (Habeas Corpus. Relator remanded to the custody of the respondent.)

21. Supreme Court — Richmond County. The Northfield Building, Loan and Savings Association v. Teofil Sypniewski et al. (Payment of surplus money on deposit with State Treasurer. Comptroller instructed to draw warrant according to order.)

22. Supreme Court — Albany County. In the Matter of the Application of Charles D. Newton, Attorney-General, on behalf of the People of the State of New York for writ of mandamus v. F. Park Lewis, M. D., President et al., as the Board of Trustees of the New York State School for the Blind. (Mandamus. To compel State School for Blind to make reports to State Board of Charities. Pending.)

22. Supreme Court — New York County. The People of the State of New York ex rel. Brixton Operating Company v. Edward B. La Fetra, as Justice

of the City Court of the City of New York.
(Constitutionality of Housing Law. Pending.)

- Oct.** 22. Supreme Court—New York County. The People of the State of New York ex rel. Durham Realty Corporation v. Edward B. La Fetra, as Justice of the City Court of the City of New York. (Constitutionality of Housing Law. Pending.)
26. Supreme Court—Warren County. The People of the State of New York ex rel. May C. Winslow v. The Managers and Superintendent of the Rome State School for Mental Defectives at Rome, N. Y. (Habeas Corpus. Pending.)
- Nov.** 3. Supreme Court—New York County. In the Matter of the Petition of Elias Friedlieb for the dissolution of Commonwealth Shoe Company, Inc. (Pending.)
4. Supreme Court—New York County. In the Matter of the Application of Carl G. Skog for revivor of the corporate existence of Jackson Heights Corporation, etc. (Application granted.)
- Nov.** 22. Supreme Court—New York County. Luther Martin v. Charles W. Morse, United States Steamship Co., Steamship Operating Co. et al. (To compel Receiver to pay over certain money. Pending.)
22. Supreme Court—Appellate Division. The People of the State of New York ex rel. Gilman v. Twomey. (Constitutionality of Housing Law. Pending.)
22. United States District, Southern District of New York. Marcus Brown Holding Company v. Marcus Feldman et al. (Constitutionality of Housing Law. Pending.)
26. Supreme Court—Westchester County. Ellen Gallagher v. William Gallagher et al. (Admeasurement of dower. Pending.)
26. Supreme Court—Nassau County. In the Matter of the Petition of John Lewis Childs, Inc. to register title to certain lands. (Pending.)

- Nov. 26. Supreme Court — Albany County. The People of the State of New York v. The New York Central Railroad Co., Skaneateles Railroad Co. et al. (Injunction to restrain defendants from increasing rates. Pending.)
27. Supreme Court — New York County. In the Matter of the Application of Adolf Burger, director in Ruggeri Embroidery Works, Inc. for its dissolution. (Pending.)
27. Supreme Court — Erie County. Veronika Wilkowsky v. Thomas Murphy. (Assault. State Trooper. Pending.)
27. Supreme Court — Albany County. The People of the State of New York v. International Bridge Company. Action No. 5. (Failure to construct vehicular roadway on bridge over Black River Harbor. Pending.)
27. Supreme Court — Kings County. The People of the State of New York v. Long Island Railroad and Staten Rapid Transit Railroad. (Injunction to restrain defendants from increasing rates. Pending.)
30. Supreme Court — Queens County. The People of the State of New York v. Joseph W. Blaisdell et al. and City of New York. (To revoke water grant. Pending.)
- Dec. 6. Supreme Court — Queens County. In the Matter of the Application of Ten Eyck & Wangeman, Inc. for authority to change name to R. Randel Wangeman, Inc. (Application granted.)
7. Supreme Court — Putnam County. Charles H. Judd v. Roy J. Garafano, United States Fidelity & Guaranty Co. and the People of the State of New York. (Lien. Improvement of County Highway No. 1513. Pending.)
7. Supreme Court — New York County. The People of the State of New York ex rel. Sanitary Products Corporation v. The New York Sanitary Products Company. (Dissolution. Pending.)

- Dec. 7. Supreme Court — Kings County. In the Matter of the Petition of the Brooklyn Trust Company of 177 Montague Street, Brooklyn, N. Y., to register title to real property. (Pending.)
16. Supreme Court — Queens County. The People of the State of New York v. Sophie D. E. Doscher. (To revoke water grant. Pending.)
16. Supreme Court — Westchester County. Carl J. Ulman et al. v. Doris U. Jaeger et al. (Judicial settlement of trustees. Pending.)
20. Supreme Court — Westchester County. The People of the State of New York ex rel. John Meyers v. Lewis E. Lawes as Agent and Warden of Sing Sing Prison. (Habeas Corpus. Pending.)
23. Supreme Court — Westchester County. Adam G. Henn v. City of Mount Vernon. (To collect salary as City Forester. Pending.)

ACTIONS COMMENCED DURING THE YEAR 1920 INVOLVING MATTER IN RELATION TO THE CONSERVATION LAW.

- Jan. 2. The People of the State of New York v. John W. Olmstead. (Action to recover purchase price of land. Settled.)
2. The People of the State of New York v. John W. Olmstead and Ano. (Action to recover purchase price of land. Settled.)
2. The People of the State of New York v. George N. Ostrander. (Action to recover purchase price of land. Settled.)
7. The People of the State of New York v. John A. Addis et al. (Fish and game violation. Judgment entered for \$400 and satisfied.)
30. The People of the State of New York v. William N. Lamb and Ano. (Partition action. Judgment entered.)
- Feb. 2. The People of the State of New York v. Horace W. Downey and Ano. (Penalty action. Judgment for defendants.)

- Feb. 9. *The People of the State of New York v. Arthur Adams et al.* (Fish and game violation. Settled.)
3. *The People of the State of New York v. Horace W. Downey.* (Fish and game violation. Pending.)
11. *Frank L. Bell v. Stabler et al. and The People of the State of New York.* (Partition action. Pending.)
22. *The People of the State of New York v. Aloysius M. Smeja.* (Fish and game violation. Settled.)
24. *The People of the State of New York v. Hyland Steeves.* (Trespass. Pending.)
25. *Frank L. Bell v. Mary L. Catlin et al. and The People of the State of New York.* (Partition action. Pending.)
30. *The People of the State of New York v. Joseph White.* (Fish and game violation. Pending.)
- March 15. *The People of the State of New York v. Bernice Wilkins et al.* (Penalty action. Settled.)
- April 12. *The People of the State of New York v. Charles Ballard.* (Penalty action for setting fires. Pending.)
24. *George N. Ostrander and Ano. v. Bell and The People of the State of New York.* (Partition action. Pending.)
24. *George N. Ostrander v. Frank L. Bell et al. and The People.* (Partition action. Pending.)
24. *Frank L. Bell v. Bell et al. and The People of the State of New York.* (Partition action. Pending.)
27. *The People of the State of New York v. Freeman Wahl.* (Fish and game violation. Settled.)
20. *The People of the State of New York v. James Lawrence.* (Fish and game violation. Settled.)
22. *The People of the State of New York v. Orson Vasser et al.* (Fish and game violation. Settled.)
16. *The People of the State of New York v. David Page.* (Fish and game violation. Pending.)
27. *The People of the State of New York v. Abe Lawrence.* (Fish and game violation. Settled.)

- April** 6. The People of the State of New York v. Loomis Huntley. (Title action. Pending.)
- May** 19. The People of the State of New York v. John W. Olmstead. (To recover purchase price of land. Pending.)
19. The People of the State of New York v. George N. Ostrander. (To recover purchase price of land. Pending.)
- June** 4. The People of the State of New York v. Fred H. Widdrington. (Fish and game violation. Pending.)
4. The People of the State of New York v. Irving Kenyon. (Fish and game violation. Pending.)
10. Frank L. Bell v. Benjamin Sandford et al. and The People. (Partition action. Pending.)
- July** 2. William H. Miner v. William J. Melvin. Replevin action for recovery of fawn. (Judgment for plaintiff.)
- Sept.** 16. Frank L. Bell v. John Stahler and The People. (Partition action. Pending.)
- Nov.** 4. The People of the State of New York v. Hezekiah Davis and Ano. (Title action. Pending.)
9. The People of the State of New York v. Clarence Longwell (Fish and game violation. Pending.)
5. Bernice Wilkins v. Ray Burmaster. (Assault action. Pending.)
10. The People of the State of New York v. Harry Hubbell. (Top-logging violation. Pending.)
19. The People of the State of New York v. Ray Bryant and Bernice L. Wilkins. (Fish and game violation. Pending.)
27. The People of the State of New York v. Samuel J. Shipley and Ano. (Ejectment action. Pending.)
- Dec.** 1. The People of the State of New York v. Walter Conlon. (Fish and game violation. Pending.)
6. The People of the State of New York v. Agnes Bentley. (Title action. Pending.)
15. The People of the State of New York v. Finch, Pruyn & Company, Inc. (Partition action. Pending.)

APPLICATIONS TO THE ATTORNEY-GENERAL TO
COMMENCE ACTIONS IN THE NAME OF THE
PEOPLE, 1920

PENDING FROM 1919

Application of Malba Estates Corporation, re alleged trespass by Stanley W. Miner and Robbins-Ripley Company, on land under water in Powell's Cove. Application undecided.

NEW APPLICATIONS.

- Jan. 19. Petition of Frank Scott to try title of N. L. Dickenson to office of town superintendent of highways, town of Hanover, Chautauqua Co.
Denied, on ground that no public interests require commencement of action, and no fraud or illegality alleged against election of respondent; that slight irregularities at primaries do not justify commencement of action.
18. Application of Michael J. McNamara to test title of Milo A. Tift to office of supervisor of 4th ward of City of Oswego.
Granted.
24. Application of Patrick J. Sullivan for removal of William Cunningham, director of Firemen's Mutual Benevolent Association.
Granted.
24. Application of George E. Pierce to dissolve the Citizens Commercial Trust Company and the Buffalo Trust Company.
Matter dropped by Applicant after filing of petition.
- March 6. Application of Charles S. Diamond to commence an action for dissolution of the Perfection Candy Company.
Application granted.
28. Application of Andrew J. Carey, to commence an action for dissolution of Rahway Mercantile & Realty Company.
Settled by stipulation and withdrawn.

- April 27. Petition of Charles J. Bernard and John J. Seeley for dissolution of Waldorf Manufacturing Company.
Matter dropped by Petitioner after filing of petition.
- June 10. Application of Joseph C. Cooper et al., to commence an action for removal of officers of The American Cotton & Grain Exchange, Inc.
Matter dropped by Petitioner after filing of petition.
25. Application of John C. Harris, for commencement of action to dissolve Finance Company of New York.
Application granted.
- July 13. Application of Sanitary Products Corporation for dissolution of New York Sanitary Products Company.
Application granted.
19. Application of John David, Inc., for commencement of action for dissolution of David & David, Inc.
Application granted; afterwards discontinued.
19. Application of Dr. George Mills, to test title of Dr. N. O. Brooks to office of Health Officer of City of Oneida.
No further action taken by petitioner after filing of petition.
20. Application of Jacob Shenfield, to compel accounting of officers of Victor Kremer Film Features Inc., et al.
Application denied, on ground that there is no public interest involved.
20. Application of Isaac Macowsky, to compel accounting of officers of Victor Kremer Film Features Inc., et al.
Application denied, on ground that there is no public interest involved.
- Sept. 15. Application of William S. Rising, for commencement of action to dissolve Eagle Paint & Varnish Company.
Application granted.

- Aug. 18. Application of Anthony Wisniewski and John L. Mikuszewski, for commencement of an action for dissolution etc., of Polish Union of America, a Corporation.
Application pending.
- Oct. 20. Application of Stanton M. Child, for commencement of an action for dissolution of Keepsafe Company, Inc.
Application granted.
19. Petition of Isadore Kornfeld and Julius Annenberg for commencement of an action for removal of Morris Drexler as President and Director of Light Baby Carriage Co., Inc.
Petition withdrawn, after hearing.
8. Application of Julius H. Cohn for commencement of action to dissolve The Getham Company.
Application granted.
22. Application of Mutual Pipe Line Company to annul letters patent issued to Crucible Steel Company.
Pending; hearing set, but adjourned indefinitely.
- Dec. 4. Application of Amelia Salomon, for Accounting and Dissolution of Universal Electric Welding Company.
Pending.

Opinions written in the above matters will be found in the latter part of this book, with the formal opinions.

OPINIONS

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OPINIONS

MILITARY LAW—NATIONAL DEFENSE ACT § 111—NATIONAL GUARD— DRAFT INTO U. S. ARMY—DISCHARGE FROM MILITIA.

A member of the National Guard drafted into the U. S. Army under § 111 of the National Defense Act, stood discharged from the Militia, and no further discharge is necessary to sever all his connections with the National Guard.

INQUIRY

Should a discharge be granted from the National Guard to an officer thereof who was drafted into the United States army under section 111 of the National Defense Act?

OPINION

The draft on August 5, 1917, of members of the National Guard, had the effect of discharging them from the militia under the terms of section 111 of the National Defense Act (Act of June 3, 1916) which provides: "When Congress shall have authorized * * * the President may * * * draft into the military service of the United States * * * any or all members of the National Guard * * *. All persons so drafted shall, from the date of their draft *stand discharged from the militia* * * *."

The discharge, like the draft, applied equally to officers and enlisted men—and all those drafted were discharged from the militia.

It is suggested that Congress had no power to provide for the discharge, by presidential act, of *officers* of the militia. The basis of this suggestion is that the Constitution of the United States in vesting Congress with power "to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States," reserved "to the States respectively the appointment of the officers etc." (U. S. Const. I, 8, xvi.)

I do not think that a limitation on the power of appointment is a limitation on the power of discharge. And unless the limitation on the power of appointment does limit the power of discharge, it is clear to me that the Congress, in providing for the organization and discipline of the militia, may provide the conditions and regulations under which members of the militia shall be discharged.

That the control of appointments and the control of discharges are not necessarily interdependent is generally accepted, in both civil and military services. We have civil service laws restricting appointments to persons certified from competitive lists but leaving unrestricted the power of removal. We have veterans' laws, preventing the removal, except after a hearing on charges, of officers and employees, whether appointed from competitive lists or not. In the military service of the State, the Constitution vests in the Legislature the power of providing the method of selecting officers, (N. Y. Const., XI, 5) but very carefully restricts their removal, taking away from the Legislature practically all power in the matter. (N. Y. Const., XI, 6.)

Congressional legislation which does not conflict with the provisions of the Constitution of the United States, is paramount to State statutes or even constitutions. I do not see any conflict between the National Defense Act and the Federal Constitution — which specifically authorizes Congress to provide for organizing and disciplining the militia and also for raising and supporting armies.

Under the State Constitution (XI, § 1) the militia is defined as "all able bodied male citizens between the ages of eighteen and forty-five, who are residents of the State * * * *subject however to such exemptions as are now, or may be hereafter created by the laws of the United States, or by the Legislature of this State.*" This provision recognizes the right of Congress to exempt persons — to exclude them from membership in the militia. This is in effect accomplished by a discharge under section 111 of the National Defense Act, in the cases to which it applies.

My conclusion is that the National Defense Act and the acts of the President in drafting the National Guard thereunder are not unconstitutional, and that a member of the National Guard, whether officer or enlisted man, who was drafted under section 111, stood discharged from the militia. Consequently no further discharge of such man is in order.

Dated January 7, 1920.

CHARLES D. NEWTON,
Attorney-General.

TO HON. CHARLES W. BERRY, *Adjutant-General, Albany, N. Y.*

ARMORIES — ENTERTAINMENTS — WAR TAX ON ADMISSION OF MEMBERS OF ORGANIZATIONS.

When entertainments, dancing and athletic events are held in armories, and admission charged, the members of the military organization occupying the armory, except those actually engaged in the active management of the entertainment, must pay the tax on admission, under § 800 of the Federal War Revenue Law of 1918.

INQUIRY

When entertainments, dancing and athletic events, to which admission is being charged to the general public, are held in a State armory under the auspices of the military organization occupying the armory, members of that organization are allowed admission free on presenting their membership cards. Are they subject to the Federal tax on admission?

OPINION

Section 800 of the War Revenue Law of 1918 provides:

"(a) That from and after April 1, 1919, there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by section 700 of the Revenue Act of 1917: (1) A tax of 1 cent for each 10 cents or fraction thereof of the amount paid for admission to any place on or after such date, including admission by season ticket or subscription, to be paid by the person paying for such admission;

"(2) In the case of persons (except bona fide employees, municipal officers on official business, persons in the military or naval forces of the United States when in uniform, and children under twelve years of age) admitted free or at reduced rates to any place at a time when and under circumstances under which an admission charge is made to other persons, a tax of 1 cent for each 10 cents or fraction thereof of the price so charged to such other persons for the same or similar accommodations, to be paid by the person so admitted
* * *."

The intention of the act is clear, to impose the tax alike on people who pay, and who are admitted without paying, the only exceptions being *bona fide employees*, municipal officers on official business, United States soldiers and sailors in uniform, and children under twelve years of age. The only possible theory upon

which members of a State military organization could claim to come within one of these classes would be that they were treated as employees. It is clear to me that members of an organization detailed to police the armory, to take tickets, and to close up after the entertainment, might well be regarded as bona fide employees. But I do not think that merely because all the members of the organization are interested in the success of the entertainment, that they should be treated as employees for the purpose of avoiding the tax. On the contrary, it seems to me that when a member of a military organization comes to an entertainment, and at the gate demands admission on the ground of his membership in the organization, presenting a membership ticket (or appearing in uniform) the fact of the matter is that he is admitted because of his membership in the organization and not because he is an employee of the person or body giving the entertainment, and under the terms of the War Revenue Act I think he should pay the tax.

Dated February 18, 1920.

CHARLES D. NEWTON,

Attorney-General.

TO HON. CHARLES W. BERRY, *Adjutant-General, Albany, N. Y.*

STATE CONSTITUTION, ARTICLE III, SECTION 16; ARTICLE I, SECTION 6; ARTICLE VII, SECTION 7. FEDERAL CONSTITUTION, ARTICLE XIV, SECTION 1. STATE LANDS HELD FOR A SPECIFIC PURPOSE WITHIN FOREST PRESERVE AREA.

Chapter 505 of the Laws of 1865, as an act of eminent domain, does not violate the provisions of the State Constitution (article III, section 16, and article I, section 6), or the Fourteenth Amendment to the Federal Constitution.

SAME. OWNERSHIP AND CONTROL OF CRANBERRY LAKE IMPROVEMENT.

Said improvement is owned by the State but is not a part of the forest preserve and is not subject to the provisions of article VII, section 7, of the State Constitution. So much thereof as is in use by the Commission authorized to complete and manage the same, is exclusively within its jurisdiction and control. The part not in use by said Commission is within the control of the Conservation Commission until necessary for use as a part of the original improvement.

INQUIRIES

1. Does the State own the lands acquired pursuant to Chapter 505 of the Laws of 1865?

2. If so, is all or any portion of said lands a part of the Forest Preserve?

OPINION

It appears by a communication from George D. Pratt, Conservation Commissioner, that a question has arisen as to whether or not the Commission has the full supervision and control of the reservoir and dam at the head of the Oswegatchie river in St. Lawrence county, constituting what is commonly known as the Cranberry Lake Improvement, and incidental thereto, whether this includes supervision of the 80-acre parcel of land on which the dam is built and upon which the dam keeper lives; and further, whether this control also extends to a belt of land surrounding the reservoir formerly taken and flowed by the improvement but, due to the lowering of the dam, not at present in use for the purposes for which the improvement was made.

The dam which flows several thousand acres of land in St. Lawrence county at the point in question, was built in 1867 pursuant to an act of the Legislature. According to the filed reports of the Hydraulic Commission created by the act there has been a gate tender upon the property since about 1865. Reports of the Commission having charge of the dam show payments to said gate keeper at rates varying from \$200 to \$500 per year.

The State, except through this Commission, has exercised no supervision of the dam or the improvement. In 1910 there were two dwelling houses, a summer cottage, some out buildings and a school house upon the eighty acre parcel, commonly known as the dam lot. The school house, however, was not used for the purposes of a school, but is reported to have belonged then or later to some parties by the name of Tid. The gate keeper lived in one of these houses. The improvement has continuously been managed by the hydraulic commissioners. The lands were taken partly by agreement, as provided in the act, and partly through the exercise of the right of eminent domain.

As late as 1874, there is a record of payment to certain parties to whose predecessors awards had been made as unknown owners. The Hydraulic Commission has given permission to cottagers to build on the dam lot. It has also in recent years ordered them

to remove. The dam keeper farms and cuts lumber and wood on said lot, and from information at hand it seems that this wood and lumber have been used thereon. In September, 1869, the Commissioners bought this particular parcel known as the dam lot from Eleazer Ward and Melissa Dux. This deed had a reverter clause to become effective when the improvement ceased. Said land was again conveyed to the Commissioners by Henry Derby and Anne Dux on October 27th of said year without any reverter clause. It is claimed that the State secured title to the dam lot and to the greater part of the flowed lands through the tax sales of 1877 for the unpaid taxes of 1866 to 1870, inclusive and through a subsequent sale of 1881, and also the sale of 1885 of a part of the tract for which a deed was given April 22, 1890.

In 1890, due to the fact that the crest or overhang of the old timber dam was becoming weak and decayed, it was lowered one foot. The dam stood at this level until 1916 when the original dam was replaced by a concrete structure from nine to ten inches lower than the dam built in 1867 but with provision for the use of "flash-boards" to raise the level to the point maintained from 1867 to 1899.

The following laws affect the improvement: Chapter 505 of the Laws of 1865, passed April 21, 1865; chapter 458 of the Laws of 1869, passed May 1, 1869; chapter 562 of the Laws of 1874, passed May 23, 1874; chapter 380 of the Laws of 1886, passed May 14, 1886; chapter 593 of the Laws of 1886, paragraph 40, passed June 5, 1886; chapter 177, Laws of 1888, passed April 26, 1888.

The various amendments neither change the purposes of the original act nor limit the powers granted to the Commissioners, and therefore need no consideration.

The Supply Bill of 1903, chapter 599, made an appropriation of \$3,000 to remove dead and floating timber from the waters and shore of Cranberry Lake reservoir. There is a similar provision in the Supply Bill of 1904, chapter 729, and in subsequent years.

On April 21, 1865, the Legislature passed chapter 505 of that year. Under this authority the improvement in question was

completed. Its history shows that as a working proposition it has been carried on, so far as I am able to find, since its completion soon after the date of the passing of the act, without any important objection, statutory or otherwise, on the part of anyone. But what is authorized and not what is done under an act is important. As stated by Mr. Justice Earle in the case of *Stuart v. Palmer*, 74 N. Y. 183, at page 188:

“The constitutional validity of law is to be tested, not by what has been done under it, but what may, by its authority, be done.”

The act should be carefully scrutinized and construed to determine whether the Legislature acted within its powers in passing it. It is well to preface any discussion of the validity of a law on constitutional grounds with the well known rule as stated in the *Matter of New York Elevated R. R. Co.*, 70 N. Y. 327-342, that:

“Every statute is presumed to be constitutional, and every intendment is in favor of its validity.”

To the same effect see *Kerrigan v. Force*, 68 N. Y. 381; *People ex rel. City of Rochester et al. v. Briggs et al.*, 50 N. Y. 553.

The Constitution of 1846, in force at the time the act was passed, provided, article III, section 16:

“No private or local bill, which may be passed by the legislature, shall embrace more than one subject, and that shall be expressed in the title.”

Does this act come within any phase of that provision, and if so, has there been compliance therewith? Is this a private or local bill? It was stated in *People v. Supervisors of Chautauqua*, 43 N. Y. 10, that “private” as referred to in the constitutional provision applies to persons and “local” to territory.

I quote from said case at page 20:

“The *People ex rel. v. Allen, Comptroller*, decided in the Court of Appeals (3 Hand, 278), the meaning of the word local, as it is used in section nine, article one, of the State Constitution above quoted, being under consideration, says: ‘An appropriation of money by the legislature, must generally be regarded as for a local purpose, where the money is

to be expended in a particular locality, and the people of that locality are to be directly and mainly benefited, notwithstanding the public are incidentally and remotely benefited also.'

"In the case before us, the subject of the law is, that money is to be raised from a particular locality, and the people of that locality are to be, by its raising, directly and mainly affected, while the public are, in the use of the bridge, to be benefited. If, in the former case, the purpose of the appropriation is local, in the latter the subject of the law is local.

"*Clark v. The City of Janesville* (10 Wis., 136, 179), holds that the word general, when applied to a law, is sometimes used as contra-distinguished from local, and that then it would mean, operating over the whole territory of the State, instead of any particular locality. It must be held, then, from the authorities also, that an act is local within the meaning of the Constitution, which in its subjects relates but to a portion of the people of the State, or to their property; and may not, either in its subject, operation, or improvement and necessary results, affect the people of the State, or their property in general."

In the case of *People v. O'Brien*, 38 N. Y. 193, it was said:

"The question, whether local or general, cannot depend upon the relative numbers in any locality. * * * The framers of the Constitution had no such design, or they would have prescribed some standard, based upon population, by which the question should be determined. Not having done so, they must be presumed to have used the term "local" in the sense in which it is generally understood. In this sense, any law limited to any particular locality is local, irrespective of the population of such locality, whether great or small."

In the case of *Ferguson v. Ross*, 126 N. Y. 459, which was an action to recover a penalty for depositing offal, etc., in the waters around New York city, it was said at page 464, in discussing whether it was a local bill or not, that,—

“It seems impossible to fix any definite rule by which to solve the question whether a law is local or general, and it has been found expedient to leave the matter to a considerable extent open, to be determined upon the special circumstances of each case. There are, however, certain general principles to be deduced from the decisions. One of these is that a statute may be public and still local and, therefore, within the purview of this provision of the Constitution. In accordance with this view it has been held that acts constituting or defining the jurisdiction of local courts, amending charters of municipal corporations, regulating the appointment and election of local officers in a particular city, providing for the laying out of streets or highways or the construction of bridges in a specified locality, and for local taxation to pay the expenses of the work, regulating the fees of officers in a particular county or the expenses of judicial sales therein, although public acts, are nevertheless local and to be valid the subject of the enactment must be expressed in the title.”

Whether or not a law operates in a limited area or upon persons within a specified locality and not generally throughout the State, would seem to be a fair and reasonable test to determine whether it is a local act when construing it with relation to the constitutional provision referred to.

Regardless of its effect upon the public generally, chapter 505 of 1865 clearly comes within such definition. It affects primarily the valley of the Oswegatchie river and the lands and rights of the riparian owners and in a somewhat more restricted sense the lumber and farming country adjacent thereto. Its main and true benefits are to be enjoyed by the people of a restricted area though certain incidental and remote advantages accrue to the public at large. The whole state may benefit and profit in an indirect way through the improvement. The river becomes a better highway for all who choose to travel thereon and the resulting aid to industry must redound to the advantage of the people of the whole commonwealth; but these results are not controlling. *The People v. Allen*, 42 N. Y. 378.

The main advantages are conferred upon the locality and this is the determining factor. The act is clearly local and consequently comes within the purview of section 16 of article III of the State Constitution. This being so, does it embrace more than one subject and is that subject sufficiently well defined in the title to comply with the constitutional requirement? The act is entitled: "An act to provide for the improvement of the navigation of the Oswegatchie river, and of the hydraulic power thereon, and to check freshets therein."

In the first section of the act the same purposes are repeated, to wit:

First: The improvement of navigation;

Second: The improvement of hydraulic power;

Third: The checking of freshets.

The statute carries into effect the purposes specified in the title through commissioners appointed by the act itself and their successors appointed by the county judge of St. Lawrence county (§ 2). They are authorized, among other things, to convert Cranberry lake into a reservoir by erecting a dam with gates to control the water (§ 5), to purchase or condemn land (§ 7), to collect the expense of acquiring the land and doing the work of assessing the amount upon the lands benefited, and, if necessary, by a sale thereof (§ 9), to assess and collect the expense of maintenance in the same way as the cost of construction (§ 14), to cause the gates of the dam to be closed in times of freshet and flood so as to check the same, and to let out the water at such times as they think best in order to preserve a uniform flow of water "for the benefit of the hydraulic power of the river and navigation thereon" (§ 11). The act declares the river and lake a public highway (§ 3).

The work of the Commission, whose appointment is authorized thereby, is directed to the carrying out of the avowed purposes and there seems to be no ambiguity in regard to the results contemplated and provided for. These purposes, however, do not appear to be the subject of the act. The subject was the improvement of the Oswegatchie river and although the improvement was stated to be for three purposes, what was to be done, namely, the making of the improvement, was the subject.

In *Brewster v. City of Syracuse*, 19 N. Y. 116, the court construed the constitutional provision in question with relation to an act, "An act for the relief of James Ley & Son." After stating that the substance of the act was to confer power on the city of Syracuse to assess, collect and pay to James Ley & Son, \$600 in addition to the contract price for constructing a city sewer, the court said:

"This constitutes but a single subject. The whole provision is framed to produce a single result, the relief of James Ley & Son. The different steps by which this relief is to be brought about are not distinct subjects but are minor parts of the one general subject. This general subject is expressed in the title. The degree of particularity with which the title of an act is to express its subject, is not defined in the Constitution, and rests in the discretion of the legislature. (*Sun Mutual Ins. Co. v. N. Y.*, 4 Seld. 241.)

An abstract of the law is not required in the title, and its actual subject is, in this law, clearly and appropriately expressed."

It is very evident that the whole act is directed to the improvement of the navigation of the river and this is so stated in the title and it therefore complies with the constitutional requirement in that respect.

As we have seen, the act states in its title and in section 1, three purposes, the improvement of navigation, the improvement of hydraulic power and the checking of freshets. The nature of the purpose must be determined by examining the face of the act and its general language and intent. The purpose must be determined by the courts from the bill itself and from those things that are the subject of judicial notice and the courts cannot go into extrinsic matters and decide that the purpose is other than as stated. There can be no inquiry into the motives or purposes of the Legislature aside from that expressed or to be fairly implied from the statute. The fact that the larger part of the benefits enure to a few or that a limited number of private

individuals will gain a great deal more than others of that locality, or that the improvement may be improvident or useless to the public, are not subjects of judicial inquiry. As to the propriety and utility of the improvement, the Legislature is supreme and its good faith cannot be impugned. Whether the purpose is a public one is a question of judicial inquiry but the necessity or utility lies solely with the Legislature.

People ex rel. City of Rochester et al. v. Briggs et al.,
50 N. Y. 553.

Waterloo Woolen Manufacturing Co. v. Shanahan,
128 N. Y. 345.

People v. Draper, 15 N. Y. 532.

Cooley's Constitutional Limitations (7th ed., p. 257).

The first and third purposes specified in the statute are unquestionably public in their nature and it being established that it is not competent to inquire into the discretion or motives of the Legislature, or its reasons for enacting a law for such purposes, it, therefore, had the right to promote them.

It being clear that these two purposes are public, it is also equally evident that the second purpose is private on its face since the hydraulic power did not belong to the state and the improvement, if avowedly for that purpose alone could not be held to be for a public use. Unquestionably an act with that as its sole purpose would not be a proper exercise of the power of eminent domain, although a modicum of public benefit might result therefrom. A purpose stated in the title and repeated in the body of the act could not have been considered by the Legislature as incidental and therefore all the purposes named in the law must be considered main purposes.

The Legislature has no power to condemn land for a private purpose. It hardly seems necessary to support this statement by citations. The books are replete with them and among others are the following:

Hay v. The Cohoes Co., 3 Barb. 42.

Fallbrook Irrigation Dist. v. Bradley, 164 U. S. 112.

Varick v. Smith 5 Paige 137.

Matter of Sweet Mfg. Co. v. Van Der Hoof, 137
A. D. 492.

Sadler v. Langham, 34 Ala. 311.

A taking for a private purpose but with incidental public benefits accruing therefrom cannot be sustained. If the main purpose is private, a resulting and incidental public benefit would not save the act.

Matter of Application of E. B. W. & M. Co., 98
N. Y. 42.

Lowell v. City of Boston, 111 Mass. 454.

Economic P. & C. Co. v. City of Buffalo, 195 N. Y.
286.

It is no more true that private property cannot be taken for a public purpose without compensation than it is that it cannot be taken for a private purpose even where compensation is made. (*Sadler v. Langham*, 34 Ala. 311; *Harris v. Thompson*, 9 Barb. 350.)

Action under the statute ever since its passage indicates that the improvement of water power for the benefit of hydraulic owners on the river has been the most important purpose in the minds of the Commissioners. *What has been done*, however, as already stated, is not important. *What could be done* by authority of the act is controlling. If the Commissioners have been too zealous in advancing the interests of private owners the remedy lies with the Commissioners. It is not a fault inherent in the statute. The action taken has improved navigation and checked freshets. The river flows through a lumbering and farming country and the water stored in the dam at times of high water, necessarily, to some considerable extent holds back the same and protects the farm lands subject to inundation at such times as well as bridges, roads, etc., affected thereby while on the other hand the water so impounded when let out in periods of drought facilitated the running of logs and other navigation.

The valley of the lower Oswegatchie, particularly, consists of fertile farm lands which, because of their comparatively low

elevation, are subject to inundation at every unusual rain fall as well as during the period of spring freshets when the melting ice and snow comes down from the great forest area at the headwaters of the river. At such periods any retardation of the flow at a point up the river does great service in protecting cultivated lands and crops as well as preserving buildings, roads and bridges from destruction or injury.

It seems that the same result could have been accomplished, namely, the improvement of navigation under the act with the second purpose eliminated and great benefit must still accrue to the hydraulic owners since action, exercised to carry out any of the purposes, must be to the advantage of all affected thereby. So far as I have been able to find no serious objection to the management has arisen from the riparian owners or others and this confirms the deduction that the management has been a reasonable benefit to all parties affected thereby.

Can private property be taken for a public and private purpose provided compensation is made for land taken solely at the expense of those benefited by the private purpose? Does the injection of the private purpose so affect the whole statute as to render it nugatory equally as if the taking had been entirely for a private use? While the improvement in question could not have been made for any of the three purposes set forth in the act without benefit to the other two, still the question arises, can the State accomplish a public purpose, not by a general tax but by a tax upon the private owners benefited? All that has been done has been by State agents, that is, the Commissioners appointed by the delegated authority of the State pursuant to the act and it was either public work or else was done without authority.

The Legislature was acting within its power in providing for the appointment of local agents to acquire the property and carry on the improvement.

In the Matter of Townsend, 39 N. Y. 171.

In the Matter of Fowler et al., 53 N. Y. 60.

The People v. Smith, 21 N. Y. 595.

The case is not like that of a railroad corporation intrusted with the right of eminent domain for the hydraulic owners were

not incorporated and could take no title even assuming that the act be held to authorize such a proceeding. If the Commissioners took title, they did so as agents of the State and their trust is publici juris and they are not responsible to the hydraulic owners because they are not their agents but the local agents of the State with the powers delegated to them by the act.

An act of eminent domain for public purposes, with incidental benefits of greater or less extent to private parties, is valid and it is no sound objection to it that it will benefit one person or a certain class of persons, more than others, or that it originated in private interests and was intended in some degree to subserve private purposes.

Harris v. Thompson, 9 Barb. 350.

Matter of Burns, 155 N. Y. 23.

Denham v. County Commissioners, 108 Mass. 202.

Matter of Townsend, 39 N. Y. 171.

People ex rel. Bingham v. W. S. Commission, 209 N. Y. 299.

As we have seen, an act to appropriate private property for a private purpose with certain incidental public benefits will not be sustained, yet it does not follow that every act, having as one of its purposes a private benefit, will be declared invalid if the parts thereof providing for public benefits can be upheld.

Richards v. Richards et al., 76 N. Y. 186.

Bloomfield, etc., Natural Gas Light Co. v. Richardson, 63 Barb. 437.

Matter of N. Y. & Long Island Bridge Co., 148 N. Y. 540.

People ex rel. City of Rochester et al. v. Briggs, 50 N. Y. 553.

The courts attempt to separate the valid parts from the invalid when construing laws of doubtful constitutionality and it is only when the purposes are so intermingled that they cannot be segregated, that the whole act will be declared nugatory. (34 Ala. 311, *supra*.)

Every attempt will be made on the part of the courts to find that the Legislature was not acting contrary to the principles of the constitution. The first and third purposes of the act were clearly public and the elimination of the second by the law-making body would have left the act without question.

In the *Richards* case the court, after construing an act that was clearly unconstitutional as passed, because it had a local provision not embraced in the subject, after stating that a subsequent amendment had removed the constitutional objection, said:

“This amendment was doubtless made to obviate the constitutional objection, which had before been upheld; and *whether it was successful or not, it is not now necessary to determine*. The act, as to section four, was not a local one. That section regulates the fees and commissions of referees in partition sales, in all parts of the State; and hence, the act, as to that section is public, and is therefore in conflict with no requirement of the constitution.”

In effect it was said that if necessary to construe the act prior to the amendment, with the objectionable matter therein, it would have been held valid as to all that was not repugnant to the constitution.

In the *Richardson* case a constitutional question was raised upon appeal from an order appointing commissioners to appraise compensation to be paid Richardson and another for an easement taken to lay a gas main in a highway. At page 450, Mr. Justice Talcott writing, says:

“Unquestionably, to a certain limited extent, the constitutionality of an act of the Legislature assuming to confer this right, is a judicial question. That is to say, a case may be supposed, in fact such cases have arisen, where the Legislature has assumed to pass enactments, the effect of which, if valid, was merely to divest one citizen of his property for the benefit of another, without the semblance of any public benefit. When such a case arises, where the absence of all pretence of public benefit is clear and palpable, it will be of course the duty of courts to declare the act unconstitutional

and void, not as an authorized taking of private property for public use, but as an attempt to take it for private use. But in order to authorize a court thus to interpose its veto upon a legislative act, it must be clear and manifest that no public use was contemplated, or public benefit is to result."

It is further pointed out that the constitutional provision against taking private property was not designed to limit its use but to provide that just compensation should be made. The Legislature could not have secured by the passage of chapter 505 of the Laws of 1865, eliminating the second purpose, any greater public benefit and it is also evident that its inclusion in no way broadens or interferes with the practical effect of the act.

The courts have sustained public laws which had, as an incident thereto, the conferring of great private benefits. What distinction can there be between a law having a stated private purpose and one having a hidden or incidental private purpose if the public benefits are not made subservient to the private ones? It is not a case similar to the one where the constitution requires that a private or local bill must have its subject expressed in the title. It cannot matter whether expressed or not, if the private purpose is paramount, and this question rests with the courts, it vitiates the act. In the case of *Sadler v. Langham*, already cited, a question arose as to the constitutionality of certain statutes authorizing the establishment of private roads and mill dams. The acts were held invalid and at page 333 the reasons for so holding are stated as follows:

"We have, then, the case of a statute, which, in the employment of a generic phrase, without expressing the different species included in that genus, attempts, by words not separable, to confer a general authority, a part of the patent objects of which are within, and others without the pale of constitutional power. In such case, we have no discretion but to pronounce the entire clause unconstitutional."

It must be inferred, that, had it been possible, to separate those objects within from those without the "pale of constitutional power," the act, so far at least as the valid parts were concerned,

would have been sustained. No such condition exists in the law under discussion. The public purposes are clearly and separately defined. It therefore seems, that the fact that a private purpose is stated as one of the main purposes does not of itself add to or detract from the validity of the statute. The only remaining question to determine is whether the first and third purposes can be separated from the remainder of the act and leave a practical working statute. The public purposes stated are clearly separable and therefore transcend and are paramount to the private purpose and the public purposes validate the law. The public purposes are not dependent upon the private one but as carried out accomplish it and this would be equally true if it were not stated in the law.

Every one who cared to had the use of the water and the fact that certain owners along the river were benefited more than others does not prevent the use being public.

Union Lime Co. v. R. R. Commission, 144 Wis. 523, 129 N. W. 605.

Fallbrook Irrigation District v. Bradley, 164 U. S. 161.

I can see no objection to the stating of a private purpose when the carrying out of the public purposes must of necessity accomplish the private benefit whether stated or not. The constitutional provision for taking private property for public uses after making just compensation has been complied with and no greater rights are attempted to be conferred or property taken by adding the statement of the private purpose. Although stated as one of the main purposes, it is in fact and from the actual nature of the improvement must be incidental to the public ones. As already demonstrated the courts will uphold the public parts of statutes except in those cases where they are so mingled with the private as to make it impossible to separate them. The act is a complete working statute when construed with relation to the public purposes and the private purpose may be disregarded and the act held valid so far as that question is concerned.

There is, however, a further question to be considered. The act provided (§§ 8 and 10), that the cost of the improvement and

the expenses of keeping up and maintaining the same should be apportioned among the owners of hydraulic power along the river. Here is a tax not general but against a specified class of private individuals to build and maintain a public enterprise. Except for the constitutional provisions, the power of taxation is entirely within the control of the Legislature. It is an attribute of sovereignty. There is no express restriction upon the taxing power of the Legislature in the State Constitution and no implied restrictions except the primary guaranties relating to life, liberty, property and due process of law, and this is true of the Federal Constitution, with certain exceptions which have no bearing here.

The 14th Amendment to the Federal Constitution provides, among other things, that no one shall be deprived of his property without due process of law or denied the equal protection of the laws, and the State Constitution, (Art. I, § 6), has a somewhat similar provision that no person "shall be deprived of life, liberty or property, without due process of law nor shall private property be taken for public use without just compensation." The fact that the cost of the public improvement is to be borne by a party primarily benefited does not condemn it. It has been held that the only restriction upon the Legislature in levying a tax is that it must be reasonable and not arbitrary or discriminating and the latter to make a tax invalid must be held to be an unjust discrimination between classes and does not apply where all persons and property in the same class are treated alike.

People v. Reardon, 184 N. Y. 431.

Nicol v. Ames, 173 U. S. 509.

The classification must not depend upon accident but must have a reasonable basis.

People v. Nenschling, 187 N. Y. 8.

A tax upon a community or upon a class must be according to some rule of apportionment and the right to apportion like that of taxation is vested in the Legislature. The Legislature may create a district tax or class of lands or persons benefited, to be designated by public agents. The fact that actual injustice is sometimes done, that the resulting benefits are not equivalent to the amount of the

tax or assessment, is not a matter for judicial inquiry but concerns the legislature alone.

People v. Mayor, etc., of the City of Brooklyn, 4 N. Y. 419.

Matter of Keeney, 194 N. Y. 281.

Potter's Dwarries on Statutes and Constitutions, page 418.

Michigan Central Railroad v. Powers, 201 U. S. 245.

Cotting v. Kansas City Stock Yards Co. et al., 183 U. S. 79.

The Legislature may commit the ascertainment of the amount of the tax and the class of lands to bear the burden to the judgment of commissioners provided the owners have an opportunity to be heard upon the question whether their lands are benefited or not.

Spencer v. Merchant, 125 U. S. 345.

In *Denham v. County Commissioners*, 108 Mass. 202, an assessment for the whole cost of opening a road was made against the party to whose house the road led. The court sustained such assessment saying that the improvement was public since any who chose might go there as on any highway and that since the private owner at the end of the road was specially benefited, it was reasonable and proper that he should pay the whole, or part, of the land damages caused by the opening.

Accepting the law as valid and constitutional on other grounds, it follows that provision for paying for the improvement as stated in the act was proper. The classification seems a well defined one based, not upon accident, but upon reason, and, however the improvement is managed, the owners of hydraulic power are probably the ones receiving the most immediate benefit and are logically the ones who should bear the greatest part or all of the cost. There is no lack of uniformity, as the rule for determining the amount is the same for all within the class, and the discretion of the commissioners is conclusive on the amount to be borne by each so long as there is, as provided by the statute, an opportunity to be heard on the question whether their lands are benefited. If the

assessment for the original cost of the improvement was valid, it is evident that a yearly assessment for maintaining the same based upon the same principles is also proper and must be upheld.

It seems from an examination thereof that the act of 1865 under which the improvement was made was constitutional and valid and that the property taken pursuant thereto belongs to the state.

Should there be any doubt as to the constitutionality of the act at the time it was passed, there seems to be a further conclusive reason why the courts would now support its validity. This is the practical construction of it by those for whom the law was enacted and by the public agents who have carried out its provisions. The practical construction of a law by those for whom it was enacted or by public officers who had the duty of enforcing it, acquiesced in for a long period, has great weight in a construction thereof.

Matter of City of New York, 217 N. Y. 1.

People ex rel. Williams v. Dayton, 55 N. Y. 367.

People v. Home Insurance Co., 92 N. Y. 337.

People ex rel. Einsfeld v. Murray, 149 N. Y. 367.

Grimmer v. Tenement House Department of the City of New York, 205 N. Y. 549, and cases cited therein.

For over fifty years the improvement has been maintained pursuant to the terms of the act. Commissioners have been appointed who have held hearings, made reports and represented the enterprise generally and no question has been raised as to the validity of the statute. In short, so far as I can find, through the many years of its existence embracing numerous legislative enactments affecting it, no question has been raised as to its constitutionality. The Legislature has several times amended it and has often passed special appropriation acts affecting the improvement. If it is unconstitutional, then undoubtedly the various similar river improvement acts passed at about the same time to improve the Grass river, (L. 1869, ch. 83), Raquette river, (L. 1869, ch. 90), and other streams, are also invalid. They are practically identical with the one here under consideration. I am unable to find that any question in connection with them has ever arisen.

I have no doubt that the courts would decide, should occasion

offer, that the act could not be assailed, but, should the statute be held invalid, there is no doubt that the property taken pursuant thereto belongs to the state. As has been said, there is no theory upon which the improvement could have been made through the sovereign right of eminent domain except that it was a public improvement. As a consequence, every act done thereunder if valid at all, was an attempt to carry out that purpose. The improvement was completed over fifty years ago and the use and occupation for the purposes authorized by the act have been continuous ever since. The possession of the state has been exclusive, continuous, adverse and under color of title during that period and it has therefore acquired title by adverse possession to all the property included within the limits of the improvement as it is more particularly shown upon a map made and filed in the St. Lawrence County Clerk's Office, as directed by the act, at about the time the property was taken. Title can be acquired by adverse possession either by an individual or by the state for the use of the public.

Eldridge v. City of Binghamton, 120 N. Y. 309.

Pillsbury v. Brown, 19 Atlantic 858.

Omaha & R. V. Ry. Co. v. Rickards, 57 N. W. 739.

Mobile & Gerard R. R. Co. v. Cogsbill, 85 Ala. 456.

Cogsbill v. Mobile & Gerard R. R. Co., 92 Ala. 252.

Hargis v. Kansas City, etc., Ry. Co., 100 Mo. 210.

The *Binghamton* case was an action of ejectment to recover possession of a parcel of land within the defendant's corporate limits and formerly part of the Chenango canal. The plaintiff raised a question as to the constitutionality of the Canal Act under which the land was taken, on the ground that it did not provide for compensation by the payment of money. The court did not pass upon this question but decided the case against the plaintiff on the ground of adverse possession. At page 314, Mr. Justice Vann writing, it says:

“For more than forty years, the state was in the actual possession and occupation of the premises, claiming to own them under its statutes and the acts of its officers pursuant

thereto. The original entry, as well as the continued possession thereafter, was under the claim of absolute title, such as the statute purported, in terms, to confer."

And again at page 315:

"Every act of the state, through its agents, in constructing, maintaining and operating the canal over this land, being done under the authority of said statute, was an assertion of its claim, which so far as appears was never disputed until long after the period of limitation provided by law had expired. (Code Civ. Pro., §§ 365-414; Code Pro., § 78; 2 R. S. (3d ed.) 293, 294.) Under these circumstances, we think that the title of the state became complete through adverse possession, independent of the right actually acquired by the proceedings in condemnation."

In *Omaha & R. V. Ry. Co. v. Rickards*, cited above, decided by the Supreme Court of Nebraska, it was held that where a railroad company took possession of real estate without color of title, its occupation for the full period of the statute of limitation only gave it title to the part actually occupied but that where it took possession following proceedings to condemn, it went in with color of title and its possession must be considered as co-extensive with the tract described in the instrument under which such possession was claimed.

In the *Cogsbill* case, reported in 85 Ala. 456, it was said:

"The condemnation proceedings in the Comrs. Court of Russell county, even though invalid for irregularities of procedure, certainly constituted color of title, under which the defendant company adversely held the premises in controversy for more than ten years."

Therefore the Court decided the company had acquired title by adverse possession. In the other *Cogsbill* case, which was another appeal in the same matter, it was said, at page 253:

"Possession taken after the acquisition of color of title is to be referred thereto, and is to be construed as co-extensive with the boundaries described in the instrument or record constituting such color of title."

And again on the same page:

“And as possession of part of a tract under color of title is, in law, so far at least as such result is not precluded by another’s actual adverse occupancy, to be regarded as actual possession of the entire tract described in the possessor’s defective muniment, the defendant’s possession and claim since 1869 must be treated as covering the land in question and as having continued for such a length of time as to bar any right of the plaintiff, who as to the land involved in the suit, has had no possession sufficient to maintain ejectment since she was ousted during the war.”

An examination of these authorities can leave no doubt that the State in the present case is possessed of the title to the land taken for the improvement. A part of the land was taken by condemnation proceedings direct and a part through agreement with the owners, but this is immaterial as it was all acquired by virtue of the authority conferred by the act and secured color of title therefrom.

A search of the public records discloses the fact that all or the greater part of the lands in question were sold in 1877 to the State for unpaid taxes for the years 1866 to 1870 inclusive, and were again sold and bought in by the State at the tax sale of 1881 and a portion was sold at the tax sale of 1885 and the deed to the State therefor executed in April, 1890. I am satisfied, however, that the assessment of these taxes and the sales thereunder could have no bearing on the question here discussed. Being at all times State land, any State tax against it would be absolutely void. By chapter 280 of the Laws of 1886, the local authorities were authorized to tax forest lands in forest preserve counties. Prior to that time State lands, of any kind whatever, could not be taxed. This act with some changes, is now section 22 of the Tax Law and at no time since the taxing of State lands by the local authorities has been permitted, has there been power to sell for failure to pay the tax. The only method of satisfaction of the taxes is that provided for by section 80 of the Tax Law which allows the State Treasurer to credit the State tax back to the county in payment of county taxes due the State. In view of these facts

it must be accepted that the tax sales referred to, so far as this property is concerned, were absolutely void.

Assuming that chapter 505 of the Laws of 1865 is unconstitutional, it is still evident that the State owns the complete improvement for the reasons already stated and the only practical result of such a position, would be that the commissioners and others holding positions under them would be without authority or license to carry on their duties. This would leave the property to be disposed of by the Legislature or within the full control of the Conservation Commission. As I am convinced that the act must now be held valid, it is of no concern which of the above would under such circumstances have control.

Having determined that the improvement must be sustained as a public act within the power of the Legislature to authorize, the further question of the extent of the control thereof by the Hydraulic Commissioners becomes pertinent.

In 1885 the Forest Preserve was created by statute, namely chapter 283 of the Laws of 1885. It embraced "all lands now owned or which may hereafter be acquired by the State of New York", within certain counties, including St. Lawrence. This Forest Preserve area was further extended by later legislation. (Laws of 1887, ch. 639; Laws of 1893, ch. 332.)

By chapter 707, Laws of 1892, the Forest Commission was given the care, custody and control of the Forest Preserve. In 1894 there was added to the State Constitution, to become effective January 1, 1895, a provision (Art. VII, § 7) providing:

"The lands of the State, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall forever be kept as wild forest lands. They shall not be leased, sold or exchanged or be taken by any corporation, public or private, nor shall the timber be sold, removed or destroyed."

A literal reading of the law would clearly include the lands here under discussion as well as all other State lands, regardless of the original purpose of their acquisition, within the counties designated, not expressly excepted and *ipso facto* make them subject by plain and unambiguous language to the stringent rules

prescribed by the law and the subsequent constitutional provision affecting the Forest Preserve. The causes resulting in the passage of the acts and constitutional provision referred to, are too well understood to require extended discussion. Suffice it to say, that the decreasing supply of wild game, the necessity for health and pleasure resorts and the conservation of the water supply of the many large lakes and streams in the area affected, made such legislation advisable and necessary for the public good and, of course, all projects in any way affected by such legislation must be considered with respect to the importance of the public utility intended to be conserved by such safeguards.

In 1912 the State Historian requested the Attorney-General to render an opinion on the question as to whether or not the Lake George Battle Ground Park, having been acquired by the State under a special act (chapter 391 of the Laws of 1900), inconsistent with its use as Forest Preserve lands, became, immediately upon its acquisition, subject to the constitutional provision relating to the Forest Preserve. After saying that a construction holding that such lands came within the constitutional provision was untenable, the Attorney-General (Attorney-General's Opinions of 1912, page 107) says:

“I think where the statute authorizing the purchase of lands for the State, plainly indicated that such land is to be used for a definite purpose which is inconsistent with its use as wild forest lands, where such purpose is one which the State had for many years previous to the enactment of the law defining the forest preserve recognized as necessary or proper in promoting the ends of government, that the provisions of law defining the forest preserve should not be held to apply so as to bring it within the constitutional provisions relating to the forest preserve.”

At time the land, under discussion in that opinion, was taken the constitutional provision relating to the forest preserve had been in force for five years, while the improvement here in question had been completed and in operation as a public enterprise nearly thirty years prior to the adoption of article VII, section 7, of the State Constitution, and about twenty years prior to any

legislation on forest preserve matters. The present case is clearly one where the necessity for this special public enterprise had been recognized for many years prior to the creation of the Forest Preserve and the reasoning of said opinion applies.

In 1908 the Court of Appeals decided the case of *People v. Fischer*, 190 N. Y. 468. This was a trespass action brought pursuant to the Forest, Fish and Game Law. The land conditions were somewhat similar to those under consideration. Defendant Fisher was the owner of a large parcel of land taken for canal purposes. She filed two claims in the Court of Claims based on two separate takings and judgments in her favor were entered and paid. In one case for land and water taken, and "permanently appropriated" and in the other for damage to lands and "for permanent appropriation." The portion of the land taken lying between the flow line of the reservoir constructed by the State and the line laid down as the limits of the appropriation had never been availed of by the State and was not in active use. In 1905 and long subsequent to the appropriation, the defendant entered upon this strip of land and cut 1,035 trees and removed them therefrom. The trespass action was the result. The defendant maintained that the State appropriated only a continuous easement for the uses contemplated and, therefore, that her act in removing timber was justified and further insisted that, in any event, the lands were not within the forest preserve and therefore the action brought pursuant to the Forest, Fish and Game Law, could not be sustained. In discussing this question, the court, Justice Chase writing, at page 480, says:

"The language of the statute thus specifying the lands which are included within the forest preserve is clear and definite and does not in itself require construction. Its plain and positive language is made even more certain by the fact that some exceptions are stated therein. It is suggested that serious trouble and inconvenience may arise if lands owned by the state within the boundaries of the forest preserve but not specially purchased and held as wild forest lands are treated as a part of the forest preserve. The questions that may arise about lands owned by the state within the boundaries of the forest preserve, but which are now devoted

or which it may be desirable to devote to purposes other than as wild forest lands, may be left for solution when they arise.

The lands upon which the trees were cut are wild forest lands owned by the state within the forest preserve, and although acquired pursuant to the statutes relating to the canals and works belonging to the state connected with the canals, were acquired for purposes and objects directly connected with the forest preserve and the preservation and supply of water in the streams leading from the forest preserve.

The lands in question are not only owned by the state, but their retention as wild forest lands is within the spirit as well as the letter of the statute creating and defining the preserve. The *control* of such forest lands should be and is with the forest, fish and game Commission and the action was, therefore, properly brought pursuant to the Forest, Fish and Game Law."

The court expressly disclaims any intention of determining the question of conflicting jurisdiction between State departments involving the use of State lands within the Forest Preserve which are now devoted, or in the future it might be desirable to devote, to any uses other than as wild forest lands.

It does not hold that the lands in that case were Forest Preserve lands for all the purposes incident to forest preserve uses and control and did not say anything more than that in that particular case they were within the *control* of the Forest, Fish and Game Commission, so far as necessary to support the action and this only after having expressly stated that any question as to conflicting jurisdiction between State departments over lands in the Forest Preserve was left for solution when it arose.

In an opinion of the Attorney-General for 1918, page 191, a question of conflicting jurisdiction between the State Department of Public Works and the Conservation Commission was discussed and it was held there were constitutional barriers which would prohibit the transfer of supervision and control from one to the other.

That phase of the question does not exist here and, therefore, that opinion is not controlling in the present case. The question is whether land, taken pursuant to a special act and managed for years as directed by it, for a public purpose stated therein, through public agents, becomes a part of the Forest Preserve by virtue of the enactment of the Forest Preserve legislation and the constitutional provision above referred to. If this be so, all State projects provided for by the Legislature operating on wild forest lands in the Forest Preserve area and not expressly excepted from the effect of the Conservation Law, must be treated as Forest Preserve lands. It follows as well, that the State could not in the future through its Legislature, provide for any special and distinct public enterprise which requires the taking of wild forest lands in the Forest Preserve counties without having such act immediately nullified by the Forest Preserve Law and the constitutional provision. Under such a literal construction, the forest land taken for the use of the State School of Forestry at Syracuse University would, undoubtedly, be transferred to the Forest Preserve and the object for which it was taken be defeated. Other similar examples might easily be cited. To follow such a narrow construction would be laying down a dangerous precedent which, if followed, would cripple the State in many of its important public activities. The flowed lands in question and the bed of the reservoir were taken for a particular public use and until 1899 were used to their full extent for that purpose. It was clearly a purpose provided for by the Legislature acting within its powers and discretion for a special and determined public benefit; local in character and although it is conceded that the purposes defined are similar in many ways to those carried out by the Conservation Commission in connection with the State preserve, I can see no reason to hold that the land so taken has become Forest Preserve land within the meaning of the Constitutional provision and the Forest Preserve statutes or that the special State Commissioners appointed to carry on the enterprise have been and are now acting without authority. There can be no question that all property taken to keep the dam at the level established by the lowering in 1899, is entirely within the care, custody and control of the hydraulic commissioners and not the

Conservation Commission. What effect did the lowering of the dam one foot in 1899 have with regard to the control of the belt of land formerly flowed but for the time not in use for the purposes for which the property was taken? The lowering was not intended to be permanent but was for the purposes of economy. It was in no sense a permanent abandonment. In 1916 the new concrete dam was erected, it was raised to a height of nine inches lower than the original dam and provision was made to use "flashboards" to bring the dam to the original level when necessary. When the "flashboards" are not in use there will still be a belt of land, subject to flow when needed but, for the time being, not under water. I am of the opinion that the lowering of the dam in 1899 in no way deprived the hydraulic commission of the right to again raise the water to the former level when necessary to carry out the public purposes for which the improvement was made.

Section 66 of article III of part I of chapter 9 of the Revised Statutes of 1899, being a part of the Public Lands Law, defines unappropriated lands, as follows:

"The lands belonging to the common school fund, all escheated lands and all other lands belonging to the state which are not directed by law to be kept for or applied to, any specific purpose shall be deemed unappropriated lands within the meaning of this title."

To make this strip of land a part of the Forest Preserve it must be held that when the dam was lowered the land was abandoned and became unappropriated State land. Such was clearly not the case. It was still subject to the original designated special use when needed.

The lands here in question, like those discussed in the *Fisher* case, "were acquired for purposes and objects directly connected with the forest preserve and the preservation and supply of water in the streams leading from the forest preserve." Both commissions are working to a common end and for a common purpose but the powers of the hydraulic commission are particularly restricted to the work for which it was created and it is not well equipped to handle the more general problems that arise in connection with forest land outside its particular province. The

Conservation Commission is undoubtedly better able to protect the interests of the State in the lands in question until they are needed for the particular improvement.

An examination of section 50 of the Conservation Law further confirms my view of the relative authority of the two commissions in connection with the property. Said section, after stating that "The commission shall, for the purpose of carrying out the provisions of this article, have the following power, duty and authority;" by subdivision 8 added by chapter 451 of the Laws of 1916, provides: "Examine the forest lands under the charge of the several state institutions, boards or other management for the purpose of advising and co-operating in securing proper forest management of such lands."

It is evident that the Legislature considered the Conservation Commission the logical body to aid other State departments in their forest problems whether the lands in question was Forest Preserve lands or not. It would seem unusual if two State agencies, working for a common purpose, could not agree on some practical scheme for caring for the property to subserve the best interests of the people of the State.

The situation with relation to the dam lot, so-called, being the eighty acre parcel taken pursuant to section 5 of chapter 505 of the Laws of 1865, which provides: "If they (i. e., the commissioners) decide to erect a dam, they shall cause a survey and map to be made of the said lake and of the lands around the same which will be overflowed, or be liable to be overflowed by a dam of such height as they shall deem necessary to erect. And also of any lot or parcel of land *which they may deem necessary to take* for the purpose of a dwelling place for the gate keeper, and for a highway to their works;" is altogether different. The act provided that the lot taken for the roadway to the works and for the dwelling place for the gate keeper should be such as the commissioners deemed necessary. So long as the commissioners acted within the bounds of reason their discretion could not be questioned. The dam and its appurtenances, as well as the gate keeper's house and out buildings are located upon the eighty-acre parcel. The gate-keeper has cut wood and timber thereon for his own use and cultivates a part of it. For some years the gate-keeper only received \$200. Undoubtedly the use of this parcel of

land was a very material inducement to him to remain there and furnished a legitimate means of partial remuneration for his services without increasing the assessment on those taxed to maintain the reservoir. It should be borne in mind that the land at this location was of little value when the dam was built and that some inducement must have been provided, greater than the small amount of money he received, to secure the services of a man to care for the dam in this isolated spot. It would seem that the commissioners acted within the reasonable exercise of their discretion in taking this parcel for the purposes mentioned and that it could not now be said that a part of it is unnecessary. This being so, it follows, as a matter of course, that all of it is now necessary and incident to the management of the reservoir. There has been no change to indicate that any less land is required now than formerly and unless the commissioners abused the discretion conferred upon them for the purposes of making the selection, and I find nothing to indicate that they did, it is not the privilege of anyone to substitute his judgment upon the question, when the Legislature clearly conferred upon them the right to use their own. I am satisfied that the exercise of their discretion cannot now be challenged and, as already stated, if the parcel was ever needed, there has been nothing to change conditions and it must still be held to be a necessary adjunct of the enterprise. The control of the Hydraulic Commission reasonably extends to the whole of this lot for the purposes of carrying on the improvement.

It would appear that summer cottages on this lot could not be justified as in any way necessary to the improvement but this is a question with which the Conservation Commission can have no concern. The lot is within the control of the Hydraulic Commission and it must be presumed that as public agents they will do their duty. Should a question at any time arise in regard thereto there is an ample remedy for their failure to do so. They are liable, as is any other public agent, for malfeasance or misfeasance in office and recourse may be had to their bonds executed in favor of the people filed in the county clerk's office pursuant to the statute.

If, in the judgment of the Legislature, this project can be controlled to better advantage by the Conservation Commission than by the officials appointed pursuant to the act, the remedy is obvious.

Property held for public use and subject to a public trust, as this is, may be taken from one public agent and transferred to another by act of the Legislature. This simply amounts to an appropriation to another public use.

Higginson v. Slattery, 212 Mass 583; 99 N. S. 523.

Darlington v. Mayor, etc., of New York, 31 N. Y. 164.

The People v. Kerr, et al., 27 N. Y. 188.

The People ex rel. Palmer v. Travis, 223 N. Y. 150

The Legislature can transfer the improvement to the control of any other State department whenever it sees fit to do so.

I am of the opinion that the title to all of the land taken pursuant to chapter 505 of the Laws of 1865, is now vested in the State of New York; that it is not a part of the Forest Preserve but that the part of the improvement now in use, including the eighty acre lot, commonly called the dam lot, is within the supervision, custody and control of the Hydraulic Commission and the remaining portion is within the jurisdiction of the Conservation Commission as the most appropriate department to protect the State's interests therein until such time as it may be needed for the purposes to which it was dedicated.

Dated February 27, 1920.

CHARLES D. NEWTON,

Attorney-General.

TO HON. GEORGE D. PRATT, *Conservation Commissioner.*

TAX LAW, SECTION 261. INTEREST ON MORTGAGE TAX MONEYS.

The interest received by county officers on mortgage tax moneys in their hands should be distributed in the same proportions as the principal.

INQUIRY

When moneys collected for mortgage taxes under Article XI of the Tax Law are deposited at interest pending distribution under section 261 thereof, is the State entitled at the time of such distribution to any of the interest so earned?

OPINION

Section 261 of the Tax Law provides for the payment to the

county treasurer by the recording officer of moneys received for mortgage taxes (except where an apportionment under section 260 is pending, etc.) on the first day of each month, and further provides that the county treasurer shall on the first day of January, April, July and October in each year, after having deducted the necessary expenses of his office provided in section 262, transmit one half of this net amount to the State Treasurer.

The suggestion is made that it would seem doubtful whether any portion of the mortgage tax money is the property of the State until the first day of the quarter when it is turned over, and that therefore the State is not entitled to any of the interest which it may have earned theretofore. I cannot accept this suggestion. If the State's share of the money is not the property of the State until paid to the State Treasurer, whose property is it? It is not the property of the county merely because it is in the possession of the county treasurer any more than moneys paid into court by private litigants and held *pendente lite* by county officers is the property of the county. Nor is it the property of the county treasurer.

The county officers handling mortgage tax moneys, act, until distribution between State and county, as officials of the State rather than of the county.

“The fund until distributed was under the management and control of the State.”

(*People ex rel. Frost v. Woodbury*, 213 N. Y. 51, 59.)

This being the case it is impossible to admit that interest paid by a bank for the use of that money should belong exclusively to the county.

In the absence of specific contract or statute to the contrary, interest paid for the use of money belongs to the owners of the principal in the same proportions as does the principal. (*Bassett v. Kinney*, 24 Conn. 267, 63 Am. Dec. 161 and cases therein cited).

I am fully satisfied that interest earned prior to distribution, on mortgage tax moneys, should go to the same political divisions

as does the principal, and in similar proportions. After distribution, the State has, of course, no right to any of the interest which may be earned by the county's share, remaining in the hands of the county treasurer.

Dated March 2, 1920.

CHARLES D. NEWTON,
Attorney-General.

TO HON. WILLIAM W. BLACKMER, *County Treasurer, Saratoga Springs, N. Y.:*

CIVIL SERVICE LAW — PROMOTIONS — INCREASE OF SALARY BY STATUTE —
DIVISION ENGINEER IN HIGHWAY DEPARTMENT.

Where a promotion examination has been held and an eligible list established for promotion from senior assistant engineer to division engineer, in the State Highway Department, the subsequent increase by the Legislature of the salary of division engineer, does not cancel the list nor prevent promotion therefrom at the increased salary.

STATEMENT.

The office of division engineer in the State Highway Department is in the competitive class of the civil service and vacancies are ordinarily filled by promotion from among those holding the position of senior assistant engineer. In 1916 the Civil Service Commission held an examination for promotion to the office of division engineer, and as a result of this examination prepared an eligible list. This eligible list has not yet been cancelled or superseded. At the time the list was promulgated the salary of division engineer was fixed by section 16 of the Highway Law at \$4,000 per annum. That section was amended by chapter 467 of the Laws of 1919, increasing the salary to \$5,000 per annum. On February 25, 1920 the Commissioner of Highways removed one of his division engineers. A clerk in his office then telephoned to the Civil Service Commission, requesting the certification of names for appointment to fill the vacancy. The Assistant Secretary of the Civil Service Commission advised this clerk that the list was already in the possession of the Highway Department and that no further certification was necessary. Thereafter the Commissioner of Highways notified the Civil Service Commission that he had appointed Leonard D. Brownell division engineer to fill

the vacancy mentioned, at the salary of \$5,000 per annum, the appointment to be effective February 25, 1920. Mr. Brownell's name was third upon the eligible list referred to. (On the list as it appeared in the Civil Service Commission's records Mr. Brownell's name was fourth, the records not having been corrected to allow for the death of Frank W. Bristow. The correction of the record to strike off the list the name of Mr. Bristow eliminates from the present controversy any question as to whether or not Mr. Brownell's name was third upon the list). The Civil Service Commission, by its Secretary, refused to accept the appointment of Mr. Brownell at a salary of \$5,000 on the ground "that the present promotion list for division engineer was established for appointment at \$4,000 per annum, and we are therefore unable to accept the appointment therefrom at salary of \$5,000." Mr. Brownell entered upon and performed the duties of division engineer, and on March 3rd his payroll as division engineer for the period from February 25th to February 29th was certified to the Civil Service Commission for approval at the rate of \$5,000 per annum. The payroll was returned without the approval of this item, but with a statement that this salary could not be certified at more than \$4,000 per annum.

INQUIRY.

Has the Civil Service Commission jurisdiction to limit the salary to be paid to division engineers in the Highway Department, or to make acceptance of an appointment conditional upon the limitation of salary below that fixed by law?

OPINION.

The request by the Highway Department for certification of an eligible list was made informally over the telephone, but the Civil Service Commission did not object to its informality at the time, but stated that a new certification was unnecessary as the list was already in the hands of the Highway Department. The attitude of the Civil Service Commission in rejecting the payroll certified March 3rd was not that an appointment had been made without proper request for certification of eligible list, or without the certification of such list, but that an appointment

at \$5,000, had been made off a list from which no appointment at more than \$4,000 could be made. There is no specific provision in the Civil Service Law or the Civil Service Rules, for the formalities which shall surround application for certification of eligible lists for promotion. Rule 8 applies generally to appointments in the competitive class and it might be construed to apply to such lists. In subdivision 2 of that rule it is provided that "whenever an appointing officer shall request a certification from the commission for appointment to or employment in any position in the competitive class he shall specify the title, duties and compensation of such position, so that certification may be made from the proper eligible list, or that when necessary a proper eligible list may be prepared as the result of an open competitive examination held for that purpose. The secretary shall thereupon as soon as practicable certify to the appointing officer for appointment, *from the eligible list most nearly appropriate to such position, as it may then exist*, the names of the three persons, etc. etc."

The Civil Service Commission is in a position to consider this rule as applying to certification of lists for promotion, or it may consider it as applying only to lists prepared as the result of open competitive examination. If they take the first position, it is true that the Highway Department did not specify, in applying for certification, the salary of the position. But it is also true that had they specified the salary at \$5,000 it would have made no difference in the selection by the secretary of the Civil Service Commission of the most nearly appropriate list from which certification could be made, because, regardless of any change of salary, there can be no more appropriate list for promotion from senior assistant engineer to division engineer than the list prepared as a result of examination open to senior assistant engineers for promotion to division engineer. There being a list than which no other list could possibly be more appropriate, it would have become the duty of the secretary to certify from this list, regardless of the salary which might be stated in the request for certification. The rule specifically states the reason why title, duties and compensation of the position shall be specified: that is "so that certification may be made from the proper eligible list." If knowledge

of the rate of salary to be paid could have no effect upon the question of which list was most appropriate, then the reason for requiring specification of the salary fails, and it is an accepted maxim of the law that where the reason for a rule fails the rule fails. Further, the salary in this case was not fixed by the head of the department, but by the statute, section 16 of the Highway Law fixing the salary without vesting in the Commissioner of Highways any discretion to change it, and without vesting in the Civil Service Commission any discretion to limit it to less than the amount so fixed. There is a presumption of knowledge of the provisions of general statutes which I think extends to the Civil Service Commission as well as to everybody else, and I think the Civil Service Commission is charged with knowledge of the salary of division engineers in the Highway Department and cannot reject appointments made by the Commissioner of Highways on the ground that he had not informed them of the provisions of a general law.

Should the Civil Service Commission take the position that subdivision 2 of rule 8 does not apply to the certification of lists for promotion but only to lists resulting from open examinations, then there is no provision requiring the formal application for certification of an eligible list in promotion cases, rule 14 being silent upon the subject. That being the case, when an informal application for a list was made by the Highway Department and accepted by the Civil Service Commission through the informal advice that the list already in the hands of the Highway Department was the proper list—a procedure which I understand is not at all uncommon but may be regarded as established by departmental usage—I do not think the Civil Service Commission is in a position to complain of the lack of formality surrounding the preliminaries to this appointment. The Commissioner of Highways had before him an eligible list which had been duly certified at one time, and which was the list of those eligible for promotion from senior assistant engineer to division engineer. From this list he promoted a man from senior assistant engineer to division engineer. I can see no reason why this promotion is not valid and why the Civil Service Commission should not certify the payroll of the man so promoted.

The contention is made by the secretary of the Civil Service Commission that since the list of those eligible for promotion from senior assistant to division engineer was prepared at a time when the salary of division engineer was \$4,000, and since the Legislature has since arbitrarily changed that salary to \$5,000, a promotion from senior assistant to division engineer cannot be made from that list. A very similar contention was made by the Civil Service Commission with respect to the position of county superintendent of highways when they had prepared a list as the result of an examination, which had been advertised in a notice stating that the salary of the position was \$2,500, and the board of supervisors of Westchester county raised the salary to \$5,000 at the time of making an appointment from that list. This contention of the Civil Service Commission was overruled by the Court of Appeals in *Matter of MacDonald v. Ordway*, 219 N. Y. 328. The opinion of the court in that case is summarized in the second paragraph of the headnote as follows:

“2. There does not appear to be any statute or rule of the state civil service commission directing or empowering it to state in the notice of an examination for applicants for a position the salary attached thereto. Hence, the commission has no authority to refuse to certify the salary of a county superintendent of highways, upon the ground that the salary fixed by the board of supervisors, at the time he was appointed, exceeded the salary stated in the notice published by the commission for the competitive examination of candidates for the position.”

In the case before me the equities are even stronger against the contention of the Civil Service Commission, for had the salary of division engineer been \$5,000 at the time the promotion examination was held, or had the Civil Service Commission announced at that time that there was a possibility of its being increased beyond \$4,000, only those who were actually admitted to the examination would have been eligible to take it, that is the senior assistant engineers. An announcement of a higher salary could not have brought in more competitors, for only senior assistant engineers were eligible to compete. If the Legislature has seen

fit to increase the salaries of division engineers, I do not see how the Civil Service Commission can say that those senior assistant engineers who were theretofore eligible to promotion have ceased to be eligible.

The vacancy in the position of division engineer must be filled, and it must be filled at \$5,000, the Highway Law giving the Commissioner of Highways no discretion in fixing this salary. Under the general principles of the Civil Service Law it must be filled by promotion from the position of senior assistant engineer. There is in existence a list of those eligible to promotion from senior assistant engineer to division engineer. I am satisfied that it is within the right of the Commissioner of Highways to make such a promotion from this list and that the Civil Service Commission cannot, by assuming a right not granted to it in either the law or its rules, limit the salary of the position or limit the power of the Commissioner of Highways to fill the position.

The promotion list is, to be sure, three and one-half years old and might well be deemed obsolete by the Civil Service Commission, if the Civil Service Commission chose to terminate it and call for an examination for a new list. But the proper time to declare a list obsolete and announce a new examination is before and not after an appointment has been made from that list. It will not do for the Civil Service Commission to say they will leave this list in effect until somebody tries to make an appointment from it and then cancel it on the grounds of obsolescence. But the refusal of the Civil Service Commission to accept an appointment from this list is not based upon any contention that the list is obsolete, for the Commission is willing to accept an appointment at \$4,000. As I have said before, the Commission has no power or jurisdiction to fix salaries in this way, and it seems to me that if the list is a proper one for the promotion of senior assistant engineers to the position of division engineer at \$4,000, it is also a proper one for the promotion of the same eligibles to the same position at \$5,000 or at any other salary which may be fixed by the Legislature.

In view of these facts it is my opinion that in effect the Civil Service Commission has certified the list of persons eligible for promotion from senior assistant engineer to division engineer;

that Mr. Brownell's name was third upon that list; and that the appointment of Mr. Brownell therefrom to the position of division engineer by the Commissioner of Highways was valid and must be accepted by the Civil Service Commission, the fact that the salary is now \$5,000 in nowise affecting the validity of the appointment. This being the case, it becomes the duty of the Civil Service Commission to certify the payroll under section 20 of the Civil Service Law.

Dated, March 10, 1920.

CHARLES D. NEWTON,
Attorney-General.

To HON. FREDERICK STUART GREENE, *Commissioner of Highways, Albany, N. Y.*

STATE. DEVICE OF ARMS. USE OF, FOR ADVERTISING PURPOSES.

The use by a private corporation of the device of arms of the State of New York upon labels, trade marks, price lists or other advertising matter is illegal, being in violation of section 1425 of the Penal Law.

QUESTION STATED

The Conservation Commission has requested the opinion of the Attorney-General upon the following questions, viz.:

Has the Saratoga State Water Corporation, the same being a domestic business corporation, engaged, as lessee or concessionee, in bottling and selling the waters of certain springs upon the State Reservation at Saratoga Springs, the right to use the device of arms of the State of New York upon its labels, trade-marks, price lists or other advertising matter?

OPINION

On the 16th day of March, 1916, the State, acting through the agency of the Commissioners of the State Reservation at Saratoga Springs, entered into a contract, afterwards assigned by the parties of the second part to the Saratoga State Waters Corporation, the lessee above named. This contract, as construed by the Court of Appeals in *Saratoga State Waters Corporation v. Pratt*, reported in the New York Supplement, Advance Sheets, dated March 1, 1920 (125 N. E. Rep. 834), granted to the said corporation the incorporeal right to enter upon the lands of the

Saratoga Reservation and to bottle and sell the waters of certain springs located thereon, upon the terms specified in said contract. Among other things the contract provided for the use by the corporation of certain labels and trade-marks belonging to the State and theretofore used in the bottling and sale of the waters of said springs. The clause of the contract providing for the use of labels and trade-marks by the lessee reads as follows:

“And it is further mutually agreed by and between the parties hereto that no labels or trade marks shall be used in the prosecution of the business for which provision is hereby made except such as are now in use and the “High Rock cone” with appropriate words of description of which may hereafter be approved by the parties of the first part, and that all trademarks and trade names shall belong to the party of the first part and be registered by it, but may be used by the party of the second part during the term of this lease in the sale of the waters covered hereby so far as the same may be applicable to such waters.”

It thus appears that the Saratoga State Waters Corporation not only has the right to use the labels theretofore used in the prosecution of said business, but that it was required to do so and was not authorized by the contract to use any other labels or trade-marks which said corporation might devise, unless the same should be approved by the party of the first part, or its successors.

A sample of the labels used upon bottled water has been furnished by the Conservation Commission, and I am advised that the same is substantially identical with those in use at the time said contract was made, and which were thereafter used by the Conservation Commission in the bottling and sale of the waters of said springs.

The center of said label and the principal feature thereof is the State's device of arms adopted by the State March 16, 1778 and fully described and re-established as the arms of the State by chapter 190 of the Laws of 1882. The provisions of this chapter are now found in article VI of the State Law. The device of arms of the State, as described in said act is required thereby to be displayed upon the State flag and is thus made a

part thereof. Prior to the year 1903, the Legislature added to the section of the Penal Code dealing with the subject of malicious injury to and destruction of property, a subdivision prohibiting the desecration of the United States flag and the State flag and ensign. This subdivision, as amended, is now subdivision 16 of section 1425 of the Penal Law. It was amended by chapter 272 of the Laws of 1903, passed April 24, 1903, which became effective September 1, 1903. This subdivision as it stood September 1, 1903, reads as follows:

“ 16. Any person, who in any manner, for exhibition or display, shall place or cause to be placed, any word, figure, mark, picture, design, drawing or any advertisement, of any nature, upon any flag, standard, color or ensign of the United States or State flag of this State or ensign, or shall expose or cause to be exposed to public view any such flag, standard, color or ensign, upon which shall be attached, appended, affixed or annexed, any word, figure, mark, picture, design or drawing, or any advertisement of any nature, or who shall expose to public view, manufacture, sell, expose for sale, to give away or have in possession for sale or to give away, or for use for any purpose, any article or substance, being an article of merchandise, or a receptacle of merchandise upon which shall have been printed, painted, attached or otherwise placed, a representation of any such flag, standard, color or ensign, to advertise, call attention to, decorate, mark or distinguish, the article or substance, on which so placed, or who shall publicly mutilate, deface, defile or defy, trample upon, or cast contempt, either by words or act, upon any such flag, standard, color or ensign, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars, or by imprisonment for not more than thirty days, or both, in the discretion of the court. The words flag, standard, color or ensign, as used in this subdivision or section, shall include any flag, standard, color, ensign, or any picture or representation, of either thereof, made of any substance, or represented on any substance, and of any size, evidently purporting to be, either of, said flag, standard,

color or ensign, of the United States of America, or a picture or a representation, of either thereof, upon which shall be shown the colors, the stars, and the stripes, in any number of either thereof, or by which the person seeing the same, without deliberation may believe the same to represent the flag, colors, standard, or ensign, of the United States of America. This subdivision and section shall not apply to any act permitted by the statutes of the United States of America or by the United States army and navy regulations nor shall it be construed to apply to a newspaper, periodical, book, pamphlet, circular, certificate, diploma, warrant or commission of appointment to office, ornamental picture, article of jewelry, or stationery for use in correspondence, on any of which shall be printed, painted or placed, said flag, disconnected from any advertisement."

The validity of this statute was called in question in the case of *The People ex rel. McPike v. Van De Carr*, (91 App. Div. p. 20), and it was there held; Patterson, J. writing for the Court, that subdivision 16, as amended by chapter 272 of the Laws of 1903, in so far as it forbade the use of any picture or representation of the United States, or New York State flag in connection with any advertisement of merchandise, or in connection with trade-marks or trade labels, was unconstitutional, on the ground that it infringed upon the personal liberty of the citizen in carrying on his business; and on the further ground, that by it the State denied to one class of citizens within its jurisdiction a right in the use of the flag and other emblems of national or State sovereignty which it granted to another class of citizens, and, therefore, was in violation of the fourteenth amendment of the Constitution of the United States. Justices Van Brunt and Laughlin dissented. The case went to the Court of Appeals, (178 N. Y. 425). The court unanimously held that a portion of subdivision 16 was unconstitutional; but placed its unconstitutionality upon another and distinct ground, namely: that the statute, as amended in 1903, and for a violation of which this action was brought, destroyed the value of existing property. It made it unlawful for any person or corporation to use any labels which they then had in their possession for use, and thereby

rendered them worthless; and the court held that the entire provision was unconstitutional on that account. Judge Parker, writing for the court, uses the following language:

“The statute in express terms, therefore, applies as well to articles manufactured and in existence when it was lawful to manufacture them and have them in possession as to those thereafter manufactured or acquired. It attempts, therefore, to destroy existing property rights, and whether the value thereof be much or little the legislature is powerless to effectuate such a result. It follows that so much of the statute as precedes the provision affecting those who ‘shall publicly mutilate, deface, defile, or defy, trample upon, or cast contempt, either by words or act, upon any such flag, standard, collar or ensign’ is void.”

It will be noticed that the court avoided any reference to the grounds on which the Appellate Division had condemned the statute. It is fair to infer, therefore, that the Court of Appeals did not adopt the views of the Appellate Division. This decision was rendered May 17, 1904, and the Legislature of 1905, by chapters 80 and 440 of that year, undertook to remedy the defect in subdivision 16 pointed out by the Court of Appeals; but left the other provisions of the statute which had been condemned by the Appellate Division, untouched. The statute was so amended as to make it operate upon labels manufactured and used *after the first day of September 1905, and not on property existing at the time the act was passed*. This was intended to, and probably did, overcome the difficulty pointed out by the Court of Appeals. At any rate, as far as appears, the statute has not since been assailed on constitutional grounds in any of the courts of the State.

By chapter 777 of the Laws of 1917, subdivision 16 was further amended so as to prohibit for advertising purposes the use of any word, figure, mark, picture, design, drawing or any advertisement of any nature upon any flag, standard, color, *shield* or *ensign* of the United States of America or of the State of New York. The word “shield” is new; and it is the shield or arms of the State which appears upon the labels now under consideration.

It is clear, therefore, that under the statute as it now stands, assuming the same to be valid, any label upon which shall appear the arms of the State, as delineated upon the sample furnished to the Attorney-General, is a violation of subdivision 16 of section 1425 of the Penal Law.

It remains to consider what effect, if any, the decision of the Court of Appeals in *Saratoga State Waters Corporation v. Pratt* (125 N. E. Rep. 834), decided January 6, 1920, has upon the subject.

It was contended by the defendant in that action that the contract was an executory contract for the doing of work; namely, the bottling and sale of the waters of certain springs; that said contract was executory, and when properly construed, did not purport to convey any vested estate in land; that the State might, therefore, refuse to perform the contract. The obligation of the contract if the same were valid, the State could not, of course, renounce; but, if broken by the State, the corporation would have its remedy for damages in the Court of Claims.

The Appellate Division sustained this contention; but the Court of Appeals overruled the Appellate Division, and held; Judge Collin writing for the Court, that the contract operated as a present grant of an incorporeal right in land which, upon the execution of the instrument, became a vested right, which neither the Conservation Commission nor the Legislature itself had the power to set aside or repudiate. The Conservation Commission had refused to perform the contract on the part of the State and had notified the Saratoga State Waters Corporation that it would not be permitted to enter upon the reservation lands for the purpose of carrying out the provisions of the alleged grant. The Court of Appeals held that in so doing, the Commissioner acted without authority of law and was a trespasser, and the court restrained him from further interference with the plaintiff in taking possession of the property granted. *This was the gist of the decision and all that it was necessary to decide.*

In a general way, Judge Collin, in reviewing the history of the transaction, remarked, that the various claims of illegality pointed out by the defendant were not meritorious and *did not affect the validity of the grant itself*; and, in view of the fact that the contract in terms provided that any provisions thereof which were

ultra vires, or in violation of any statute of the State, should be disregarded and treated as null and void, *the valid portions of the contract could be upheld and carried out.*

It thus appears that what was said by the learned Judge with reference to the merits or demerits of various executory provisions of the contract was unnecessary to the decision, and *obiter*.

Not only so, but the validity of the provision now under consideration *was not called in question upon the trial at Special Term, nor upon appeal.* The clause itself as written, appears harmless, as it simply provides that the labels then in existence, but not described in the contract, should be used by the lessee of the State in the bottling and sale of the waters of the springs. It would naturally be to the advantage of both parties that the old form of labels should be used, thereby carrying the good will of the existing business over to the parties who were to continue the business. *The question was not raised, whether the lessees and their assigns might lawfully use, in connection with advertising matter, the arms or shield of the State.* It is certain, therefore, that the matter was not adjudicated in the Saratoga case against Pratt, nor is there anything in the opinion of the learned Judge writing for the Court which militates against the conclusion reached herein.

Dated, March 20, 1920.

CHARLES D. NEWTON,

Attorney-General.

TO HON. GEORGE D. PRATT, *Conservation Commissioner.*

INQUIRY

PUBLIC HEALTH LAW SECTION 373 — PUBLIC OFFICERS LAW — HEALTH OFFICERS — TERM OF OFFICE — VACANCIES.

The office of registrar of vital statistics was created on January first, 1914, and the terms of all registrars began on that date. Where a term is interrupted by a vacancy or an appointee holds over, the registrar succeeding holds only during the residue of the four year term. An appointing board or officer may not by anticipation fill a vacancy certain to happen during the term of office of a succeeding board or officer. These conclusions may be modified by the provisions of municipal charters.

The State Commissioner of Health submits a general inquiry relative to the terms of registrars of vital statistics, and the facts upon which these are based will be referred to in this opinion.

OPINION

The office of "registrar of vital statistics" was created by L. 1913, ch. 619 amending the Public Health Law by inserting a new Article 20. Section 373 provides:

"Section 373. *Registrar of vital statistics.* In each primary registration district there shall be a registrar of vital statistics. Qualifications of registrars of vital statistics hereafter appointed shall be prescribed by the public health council. * * * A local health officer shall be eligible for appointment as registrar of vital statistics. * * * In towns and villages the registrar or registrars of vital statistics shall be appointed by the town board and by the village board of trustees respectively; in cities, unless otherwise provided by the charter, the registrar or registrars of vital statistics shall be appointed by the mayor. In each primary registration district consisting of a state hospital, charitable or penal institution, the registrar shall be the superintendent or person in charge of such institution, provided, however, that he shall receive no additional remuneration for acting as such registrar. The term of office of a registrar of vital statistics, unless the charter of the city or village shall provide otherwise, shall be four years. Each registrar of vital statistics shall hold office until his successor shall have been appointed and shall have qualified. * * *"

Previously the duties of this office were not performed by officers having the statutory title of "registrar". Section 22 of the Public Health Law; now repealed, had provided that boards of health should supervise and make complete records of vital statistics. The records were certified "by the president or secretary of the board or *local registering officer* designated by it." I therefore, conclude, that the Legislature by creating an office under a statutory title, fixing the term, providing for appointment, discipline, etc., intended to create an entirely new office.

Section 30, subdivision 7 of the Public Officers Law became applicable. This provides in part:

"When a new office or an additional incumbent of an existing office shall be created, such office shall for the purposes of an appointment or election, be vacant from the date

of its creation, until it shall be filled by election or appointment."

Laws of 1913, ch. 619, was made effective January 1, 1914. In all municipalities for which registrars were provided, the office was vacant from that date.

Section 38 of the Public Officers Law then applied. This provides in part:

"Section 38. *Terms of officers chosen to fill vacancies.* If an appointment of a person to fill a vacancy in an appointive office be made by the officer, or by the officers, body or board of officers, authorized to make appointment to the office for the full term, the person so appointed to such vacancy shall hold office for the balance of the unexpired term. * * *"

This statute is likewise applicable where the office becomes vacant during a term. The successor holds only for the residue of the term.

Likewise where a registrar holds over on account of failure to fill a vacancy, the successor takes only the unexpired term. It is so provided by Section 5 of the Public Officers Law.

"Section 5. *Holding over after expiration of term.* Every officer except a judicial officer, a notary public, a commissioner of deeds and an officer whose term is fixed by the constitution, having duly entered on the duties of his office, shall, unless the office shall terminate or be abolished, hold over and continue to discharge the duties of his office, after the expiration of the term for which he shall have been chosen, until his successor shall be chosen and qualified; but after the expiration of such term, the office shall be deemed vacant for the purpose of choosing his successor. An officer so holding over for one or more entire terms, shall, for the purpose of choosing his successor, be regarded as having been newly chosen for such terms. An appointment for a term shortened by reason of a predecessor holding over, shall be for the residue of the term only."

It suggests itself that section 130 of the Town Law and other general laws applicable to municipalities of particular classes may control appointments to fill vacancies.

Section 130 of the Town Law provides in part:

“Section 130. *Power of Town Board to fill vacancies.*

When a vacancy shall occur or exist in any town office, the town board or a majority of them may, by an instrument under their hands and seals, appoint a suitable person to fill the vacancy, and the person appointed, except justices of the peace, shall hold the office until the next biennial town meeting * * *.”

It is my opinion that this and similar general statutes do not apply, since the registrar is not a town, village or city officer. He is an officer of the primary registration district. Section 373 of the Public Health Law, above quoted, provides for the appointment of registrars “In each district.” Registration districts are delimited by section 372 of the same statute as follows:

“Section 372. *Registration Districts.* The State shall be divided into registration districts as follows:—Each city, each incorporated village, each town, and each state hospital, charitable or penal institution shall constitute a primary registration district, provided that the State Commissioner of Health may combine two or more primary registration districts or divide one registration district into two or more primary districts to facilitate registration.”

It is clear that boundaries of incorporated municipalities are coterminous to the primary registration district only incidentally, and that a district may contain more than one municipality. Under the definition of section 2 of the Public Officers Law the registrar is, therefore, a “local officer” of his primary registration district. The provisions of the Public Officers Law consequently control, although, these were of earlier enactment than the Town Law and other general statutes.

It appears that a town board attempted to anticipate a vacancy happening by expiration of term in January by filling it the

preceding December. This is bad practice, even if the same board should continue in office during the succeeding year. I find no authority given to anticipate vacancies sure to occur, except where the appointment is made by an executive officer, by and with the advice and consent or a legislative body, which may not be in session at the time the vacancy actually occurs, vacancies in the office of registrar should be filled at the time they arise.

It is, therefore, my opinion that the terms of registrars are to run in cycles of four years beginning January 1, 1914. Vacancies will, therefore, not interrupt these cycles or start new periods running, but the terms of office will always expire on the first day of January, 1922, 1926 etc. The appointing power should fill the vacancy at that time or thereafter. Of course, the operation of special city and village charter provisions may, as stated in section 373 of the Public Health Law, modify, to some extent, this result.

There is no authority given the appointing power to limit the term in the warrant of appointment and clerks of municipalities do not take the office of registrar either by custom or by virtue of their office. Where such clerks act as registrar it must be under a distinct appointment to that office.

Dated, March 30, 1920.

CHARLES D. NEWTON,
Attorney-General.

TO HON. HERMANN M. BIGGS, *State Commissioner of Health,*
The Capitol, Albany, N. Y.

TAXES ON JEWELRY. U. S. REVENUE ACT OF 1918. STATE HOSPITALS.

Silverware purchased by State Hospitals is subject to the Federal tax on jewelry. (Revenue Act of 1918, title IX, section 905).

INQUIRY.

When silverware is purchased for use in State Hospitals is it subject to the Federal tax on jewelry?

OPINION.

Section 905 of Title IX of the U. S. Revenue Act of 1918 imposes a tax

“upon all articles commonly or commercially known as jewelry, whether real or imitation; * * *; articles made of, or ornamented, mounted or filled with, precious metals or imitations thereof or ivory (not including surgical instruments;) * * *.”

I rendered an opinion, dated March 9, 1920, calling attention to the fact that under the Regulations of the Treasury Department (Reg. 48, Art. 6 — May 5, 1919) the tax did not apply to articles sold to a State or political subdivision for use in carrying on its governmental operations. Since then my attention has been called to an amendment of Regulation 48, Article 6, dated July 22, 1919 (T. D. 2897) in which the exception of articles sold to States and political subdivisions is omitted. This amendment was based upon the opinion of the Attorney-General of the United States, dated July 7, 1919.

In view of the amendment, I must withdraw my opinion dated March 9, 1920, and advise that the tax be paid with respect to articles purchased by the State.

Since the tax is levied upon and payable by the manufacturer or dealer, the fact that the State is the ultimate consumer does not interfere with the jurisdiction of the United States to impose the tax any more than it would interfere with the power of the United States to impose customs duties on imports eventually consumed by the State or political subdivisions, or excise duties on distilled liquors eventually so consumed.

Dated April 6, 1920.

CHARLES D. NEWTON,
Attorney-General.

TO STATE HOSPITAL COMMISSION, *Albany, N. Y.*

CIVIL SERVICE LAW ARTICLE 3 — ADDITIONAL COMPENSATION — SCOPE OF ARTICLE.

Article 3 of the Civil Service Law has no application to laborers, mechanics, cooks or other employees except clerks, bookkeepers, stenographers, copyists, messengers and other employees whose duties are of a clerical character.

INQUIRY

The inquiry comes from one State institution as to the application of Article 3 of the Civil Service Law to firemen employed to do extra work shovelling coal and teaming, and a similar inquiry from another State institution with respect to the application of the Article to a cook employed overtime as a teamster. In each case the inquiry is whether the employee so employed out of his regular hours may be paid for his overtime services.

OPINION

Article 3 of the Civil Service Law, originally passed as chapter 521 of the Laws of 1901, (the "Higgins Law") is limited in its application by its own terms to "all clerks, bookkeepers, stenographers, copyists, messengers and other employees whose duties are of a clerical character in all the State departments, bureaus, commissions and offices, except those otherwise fixed by law, or whose salaries were January first nineteen hundred and one, more than the maximum fixed herein." (C. S. L. § 40.) Section 43 of the same article provides:

"No person holding a position or employed in any department, bureau, commission or office to which this article applies and for which a definite salary or compensation has been appropriated or designated, shall receive any extra salary or compensation in addition to that so fixed."

In 1904 Attorney-General Cunneen held that the provisions of the act did not apply to conductors of teachers' institutes, their duties not being of a clerical character. (Op. Atty.-Gen. 1904, page 304). In the same year he held that the statute had no application to the position of laborer in the Comptroller's office, saying:

"The position held * * * is that of laborer and the services performed by him do not appear to have been of a clerical character. This being so, it would seem plain that chapter 521 had no application to the case under consideration." (Op. Atty.-Gen., 1904, page 320.)

In 1912 Attorney-General Carmody in effect approved these decisions in his opinion on additional compensation to the Dean

of the New York State College of Forestry. (Op. Atty.-Gen., 1912, page 414.) It seems to me perfectly clear that Article 3 of the Civil Service Law was never intended to extend to any position except those defined in § 40. It is also clear to me that where persons are required or permitted to work overtime, rendering services not within the scope of their regular employment, they should be paid for those services and there is nothing in the Civil Service Law to prevent it.

Dated April 19, 1920.

CHARLES D. NEWTON,
Attorney-General.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Albany, N. Y.*

CIVIL SERVICE LAW SECTION 21-A. RETIREMENT AND PENSION OF CIVIL WAR VETERANS IN THE CIVIL SERVICE.

A Civil War veteran, in order to be entitled to retirement by the State under section 21-a of the Civil Service Law, must be in the employ of the State for a continuous period of ten years at the time of application for retirement.

INQUIRY.

An honorably discharged soldier of the United States in the late civil war was employed for a continuous period of over ten years in a county position, after which he was transferred to a State position and served for two years. Is he entitled to retirement from the State position?

OPINION.

Section 21-a of the Civil Service Law as added by Laws of 1916, chapter 438, and amended by Laws of 1917, chapter 768, provides:

“ Every soldier, sailor or marine of the army or navy of the United States in the late civil war honorably discharged from service who shall have been employed for a continuous period of ten years or more in the civil service of the state of New York *and the several cities and counties thereof* and who shall have reached the age of seventy years upon his own request, or if employed in manual labor upon being incapacitated for performing manual labor, shall be retired from his

employment by the state of New York *and the several cities and counties thereof*, and thereafter and during his life the state department or institution *and the several cities and counties* which employed him at the time of his retirement shall pay to him in the same manner that the salary or wages of his former position were customarily paid to him an annual sum equal in amount to one-half the salary or wages paid to him in the last year of his employment; provided, however, that the amount so to be paid to such retired veteran shall not exceed the sum of one thousand dollars per annum." (The amendments of 1917 are shown in italics.)

As originally passed this section provided for retirement only of State employees. The amendment was intended to permit similar retirement of city and county employees, but I do not think that it was intended to permit one who served some time in a city or county and some time under the State to add up the time served under two or three different governments for the purpose of drawing a pension from the last one under which he served. I do not think the legislature intended to permit a man who had served for almost ten years or over ten years under a city or county government to accept an appointment under the State government and immediately retire at the expense of the State. In order to be entitled to retire at the expense of the State, he should have served a continuous period of ten years under the State government and still be in the State service at the time of applying for retirement.

Dated April 19, 1920.

CHARLES D. NEWTON,
Attorney-General.

To DR. M. H. COLE, *Assistant Surgeon, N. Y. State Soldiers' and Sailors' Home, Bath, N. Y.*

MILITARY LAW ARTICLE I-A — MILITARY TRAINING — APPLICATION TO FEDERAL EMPLOYEES.

Employment by the Federal government does not of itself exempt boys from the provision of article 1-a of the Military Law prescribing military and disciplinary training for boys of certain ages.

INQUIRY.

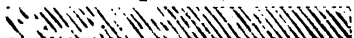
A boy, a resident of New York, between the ages of sixteen and nineteen, is employed by the Federal government in the office of the United States Attorney in New York City. Is he subject to military training under article 1-a of the Military Law?

OPINION.

Whether we regard the Military Training Law as a militia law or as an education law, it is clearly within the police power of the State. The exercise of the police power is primarily essential to sovereignty. The states have not surrendered this function of sovereignty to the Federal government.

Of course the states cannot pass laws which would seriously hamper or which might destroy the Federal government, but neither can the government prevent the exercise by the state of a proper police power over its citizens. No one would suggest for a minute that a Federal employee should be exempt from arrest by peace officers of the state, for crimes punishable under state laws. Federal employment does not exempt men from militia duty or from jury duty under the state laws. Federal employment does not exempt children from compulsory education under the Education Law, and I can see no reason why it should exempt a boy from military training under article 1-a of the Military Law. The power of the Federal government is paramount in certain matters and the United States can take from the states men to form an army, but I do not consider the civilian employment under the United States as paramount to the police power statutes of the states — certainly not unless Congress specifically declares them so. It seems to me that employment by the United States, in a civil capacity, does not exempt a boy from military training by the state any more than employment by the state in a civil capacity would exempt a man from draft into the Federal army.

Dated April 28, 1920.



CHARLES D. NEWTON,

Attorney-General.

TO THOMAS C. STOWELL, Esq., *Secretary Military Training Commission, Albany, N. Y.*

TAX LAW, SECTION 258, AMENDED BY LAWS 1920, CHAPTER 51 — PENALTIES ON PAYMENT AFTER TAX DUE.

The provisions of chapter 51 of the Laws of 1920 should not be deemed retrospective, and accrued penalties are not affected thereby.

INQUIRY

In view of the amendment to section 258 of the Tax Law by L. 1920 c. 51, how are penalties to be computed thereunder in the following cases:

(a) An instrument which upon its face is a mortgage was recorded prior to May 23, 1913?

(b) An instrument which upon its face is a mortgage which was recorded between May 23, 1913 and March 23, 1920?

(c) An instrument in respect to which it could not be determined from the face thereof that a tax was due which was recorded between May 23, 1913 and March 23, 1920, or an advance on a prior advance or corporate trust mortgage, made between May 23, 1913 and March 23, 1920?

OPINION

Prior to May 23, 1913, section 258 imposed no penalties in the form of interest or increased tax. At that time the section was amended (L. 1913 c. 665) to provide:

“Whenever it shall appear that any mortgage has been recorded or that any advance has been made on a prior advance mortgage or on a corporate trust mortgage without payment of the tax imposed by this article there shall be paid in addition to the amount of the tax a sum equal to one per centum thereof for each month the tax remains unpaid, which sum shall be added to the tax and paid or collected therewith.”

Attorney-General Carmody held that this amendment was not retrospective and that penalties should be computed from May 23, 1913 even though the mortgage had been recorded or the advance made prior to that day. (Op. Atty.-Gen. 1913, p. 495).

By L. 1920, c. 51, effective March 23, 1920, the clause above quoted was amended to read:

“And whenever it shall appear that any mortgage has been recorded without payment of the tax imposed by this article there shall be added to the tax a sum equal to one-half of one per centum thereof for each month or fraction of a month for the period that the tax remains unpaid, except where it could not be determined from the face of the instrument that a tax was due, or where an advance has been made on a prior advance mortgage or a corporate trust mortgage without payment of the tax, in which case there shall be added to the tax a sum equal to one per centum thereof for each month or fraction of a month for the period that the tax remains unpaid.”

I see no reason why the new amendment should be regarded as retrospective, any more than the amendment of 1913. The courts are reluctant to consider statutes retrospective in their action, and only do so when the legislative intent to have them retrospective is clear. The presumptions are against retroactivity, especially where rights or liabilities already accrued would be affected by retrospective application.

“It was an ancient rule in the construction of statutes that an amendatory statute was to be construed as though a part of the original enactment, and retroactive effect was given to it accordingly. But this rule has been disregarded for a long time, and it is now settled that an amendatory statute has no more retroactive effect than an original independent statute upon the same subject framed in the same language would have. Thus, it is the general rule that an amendment will have prospective application only, unless its language clearly indicates that it shall receive a contrary interpretation. The provisions in the statute which are unchanged by the amendment retain their original force as though no amendment had been made, but the new provisions apply only from the date of the enactment. (1 McKinney Consol. Laws, § 19; see also cases there cited).

“A pre-existing right or liability, whether or not it is constitutionally protected from change, will not be affected

by legislation, unless legislative intent to the contrary is obvious. The doubts if any will be resolved in favor of holding subsequent statute to be prospective only." (id. § 20.)

Under these general rules it would seem that all new penalties, under the amendment of 1920, are effective only from the date of its passage. Penalties under the 1913 act, accrued prior to March 23, 1920, remain in force, both under the general rules and under the General Construction Law, section 93, which provides:

"The repeal of a statute or part thereof shall not affect or impair any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time the repeal takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such repeal had not been affected."

I therefore believe the correct answers to the inquiry to be that the penalties should be:

(a) One per centum for each month from May 23, 1913 to March 23, 1920 plus one-half of one per centum for each month or fraction from March 23, 1920 to date of payment.

(b) One per centum for each month from the date of recording to March 23, 1920 plus one-half of one per centum for each month or fraction from March 23, 1920 to date of payment.

(c) One per centum for each month or fraction from date of advancement to date of payment.

Dated, April 30, 1920.

CHARLES D. NEWTON,
Attorney-General.

To STATE TAX COMMISSION, *Albany, N. Y.*

GENERAL MUNICIPAL LAW, SECTION 153 — POOR LAW SECTION 40 — CHILD WELFARE — POOR PERSONS — RESIDENCE — SETTLEMENT.

Although a widowed mother may have a poor settlement in a municipality, still she may not necessarily have the two years residence required for relief by a Board of Child Welfare.

FACTS

A husband and wife moved their family from Buffalo, Erie county where they were residents, to Burt, Niagara county, where they lived 9 months, until the father died. The mother and children then returned to Buffalo bringing with them the household furniture which had been taken to Burt. The question is presented whether the Board of Child Welfare of Erie county may grant relief to the widow and children?

OPINION

Section 40 of the Poor Law provides in part.

Section 40, *Settlements, how gained.* Every person of full age, who shall be a resident and inhabitant of any town or city for one year, and the members of his family who shall not have gained a separate settlement, shall be deemed settled in such town or city, and shall so remain until he shall have gained a like settlement in some other town or city in this state, or shall remove from this state and remain therefrom one year. * * * * *

It was said in construing this statute in *County of Delaware v. Town of Delaware*, 105 Ap. Div. 129, where a family had resided in Sullivan county for more than a year, that the family had gained a settlement there. Yet, the court held that where the family moved to Delaware county and became indigent there, after a residence of about only two months, the County of Delaware could not charge the Sullivan county town of their original settlement with their relief. The Court put its decision upon the ground that the place of original settlement was charged only where persons settled there, became indigent *before* and not *after* removal.

This case was followed by *County of Broome v. County of Cortland*, 154 App. Div. 349, decided seven years later and also

in the Third Department. Neither case went to the Court of Appeals.

In the Broome case the Court construed, and I am inclined to believe intended to modify the earlier case, although something is said at the end of the opinion to the effect that the family was "poor shiftless and improvident and were fair subjects for charity and treated as such" before they left the county of original settlement.

The court, however, seemed satisfied to treat the question as one of law and actually held as follows: the family were natives of Broome county and moved to Tioga county; they resided there eight months; they afterwards resided in Cortland county eight months more and then returned to the place of original settlement in Broome county; they received no aid at any time from the authorities of Tioga or Cortland counties.

The court decided they were a charge against the town in Broome county, where they had their original settlement. Discussing the Delaware case, the court said that it intended to hold no more than that a county of new residence had no right of action under the statutes against the county of actual settlement where the persons were not in fact poor when they took up their new residence.

Accepting the Broome case as the last declaration of the policy of the law by a court of appellate jurisdiction, it goes far to establish that in the case presented to me, the family did not lose their Buffalo settlement by actual residence of three months less than a year in Niagara county. Let us concede, even, that under the Broome case this family is a charge upon the poor officers in the place of original settlement in Erie county.

Still, we are left to determine whether "settlement," as the term is used in its arbitrary and technical meaning in the Poor, Law, will in this and all cases satisfy the qualifications required for relief by a Board of Child Welfare under Article 7a of the General Municipal Law.

Section 153 of this statute provides in part:

"Section 153. *Regulation governing allowances.* 1. A board of child welfare may, in its discretion, when funds have been appropriated therefor, grant an allowance to any

dependent widow residing in the county or city wherein she applies for an allowance, and who is deemed by the local board of child welfare to be a proper person mentally, morally and physically to care for and bring up such child or children, provided such widow had been a resident of the county or of the city wherein the application for an allowance is made for a period of two years immediately preceding the application, and whose deceased husband was a citizen of the United States and a resident of the State at the time of his death.

* * * * *

3. Before granting an allowance the board shall not only determine that the mother is a suitable person to bring up her own children and that aid is necessary to enable her to do so, but further that if such aid is not granted the child or children must be cared for in an institutional home."

* * * * *

For relief under this statute applicants must have two years residence; for relief under the Poor Law the indigent must have settlement. How settlement may be obtained and lost, how liability is established between towns and cities in the same county and what are the responsibilities of different counties, are set forth in great detail under the Poor Law.

Yet, the provisions of the Poor Law do not necessarily modify or control the General Municipal Law, nor are cases arising under the latter statute to be treated as analogous and really similar to those arising under the Poor Law. It is true the Boards of Child Welfare may care only for "dependent" widows where it appears "that if such aid is not granted, the child or children must be cared for in an institutional home." Nevertheless, I believe that the Child Welfare system was intended to be separate and distinct from all other relief authorized by statute for indigents.

During the time of agitation for its enactment, it was known as the "Widows' Pension Bill." This was really a misnomer, but indicates the conception of its entire departure from traditional forms of relief.

Still, leaving this aside as not conclusive, it is apparent that a person may abandon an old residence and acquire another almost

in a moment. The artificial status of settlement may not be changed in less than a year, despite the actual residence or domicile. The Poor Law forbids poor persons from changing their settlement, although they may at the same time change their residence. Further, the Poor Law seems to comprehend, that although persons who are not poor may abandon their residence and assume a new one, they have not relinquished their original settlement, if they became poor within a year. It is clear there may be a change of residence without a change of settlement.

It is, therefore, my opinion that the Poor Law and the General Municipal Law cannot be reconciled so that the parts of the one may harmoniously supply the other. Settlement may be established in a year; the residence required under the Child Welfare Law is specifically made two years of uninterrupted duration. Settlement is like the status provided for in the Child Welfare Law, only in that it has as its basis residence or inhabitancy as these have been judicially defined in election cases, those involving matrimonial domicile, etc. Still, the period fixed for one is a year longer than the other. The family, on the facts submitted had not been "a resident of the county or of the city wherein the application for an allowance is made for a period of two years immediately preceding the application" as required by the Child Welfare Law.

The provision that the deceased husband must have been "a resident of the State at the time of his death" need not affect this conclusion as indicating the possibility of a residence by the father separate from the family, since I believe this provision was intended to cover cases in no way similar to this.

Of course, in reaching my conclusion, I am relying on the slight data as to abandonment and change of residences contained in the inquiry. It may later be made to appear that the residence in Erie County was never abandoned and that the family was only visiting in Niagara County. This, however, is a question of fact which the local Board is in better position to sound.

Dated, April 30, 1920.

CHARLES D. NEWTON,

Attorney-General.

TO THE STATE BOARD OF CHARITIES, *Capitol Albany, N. Y.*

MOTOR VEHICLE LAW.

The fee paid by an applicant for a chauffeur's license should be returned to such applicant if he is denied a license.

INQUIRY.

What should be done with the fee of \$5.00 paid by an applicant for a chauffeur's license when application is denied and no license issued?

OPINION.

It is provided by Section 289 of the Motor Vehicle Law that the Secretary of State shall appoint examiners and cause examinations to be made of all chauffeurs desiring to pursue the trade within this State, and such applicant is obliged to pass such examination as to his qualifications as the Secretary of State may require before a license can be issued to him. It is also required by such section that

“Every application for a chauffeur's license filed under the provisions of this section shall be sworn to and shall be accompanied by a fee of five dollars. Every application for an operator's license shall be sworn to and accompanied by a fee of two dollars. A license granted hereunder at any time shall expire on the ensuing thirty-first day of January.”

It is also provided in subdivision 5 of such section that,—

“The Secretary of State may refuse to issue or renew a license if he deems the applicant not qualified to receive such license.”

The statute is entirely silent as to the disposition of fees paid by the applicants for either a chauffeur's or operator's license. Neither is there any provision for a return of the license fee if the applicant is denied a license.

The first statute in this State relating to the licensing of chauffeurs was chapter 374 of the Laws of 1910, and contained substantially the same provision relating to the licensing of chauffeurs as at present after several amendments have been made, and required each application for a chauffeur's license should be accompanied by a fee of five dollars.

Under the act of 1910 former Attorney-General Carmody held in two opinions rendered in 1911, that if an applicant failed

in his examination or was denied a license, the fee which he sent with his application should be returned. Report of 1911, pages 212 and 278. The closing paragraphs of the first opinion read:

“The applicant in the present case, having failed to pass the prescribed examination, cannot receive the license for which he advanced his fee. It is therefore my opinion that you should return the fee.”

And the concluding paragraphs of the second opinion read as follows:

“It is my opinion, therefore, that where the Comptroller is satisfied that license fees paid by your office into the State treasury were paid therein by mistake and that such fees do not belong to the State and are no part of any fund under its management, the Comptroller has authority to draw his warrant therefor on the Treasurer in favor of the person making such payment. I would advise that inasmuch as you are acting in the nature of a trustee in receiving fees paid to you upon application for chauffeurs' licenses (which fees do not belong to the State and are no part of any fund under its management until the licenses for which such fees are paid shall have been issued) that you do not pay such money into the treasury until the licenses shall have been issued.”

I fully concur in the views so expressed by my predecessor. The money sent with an application does not belong to the State until it is applied in payment of the license and if no license is granted it can never become the property of the State, but remains the property of the applicant and should in all cases be refunded.

If it was the intention of the Legislature that the five dollars accompanying an application should be forfeited to the State in the event the applicant was denied a license, it was and is unconstitutional so far as that part of the act is concerned, for it is a part of our fundamental law that “no person shall be deprived of life, liberty or property without due process of law.”

It cannot be claimed that the declaration of a statute, if any

such intention prevailed, that money paid by an applicant for a license shall belong to or be payable to the State, if he is not granted a license, is "due process of law." The right of the applicant to a return of his five dollars under such circumstances is elementary and does not require the citation of authorities to substantiate it.

I am in full accord with the opinion expressed by Mr. Carmody that the Secretary of State is acting in the nature of a trustee in regard to such application fees, and that they do not belong to the State until a license has been granted, and should be held by him until each application is finally disposed of, and that all fees should be returned to the applicants if they are refused or denied licenses.

I am not unmindful of the provisions of the State Finance Law requiring moneys collected by State officers, boards, etc., to be deposited and paid over to the State Treasurer, but it should be borne in mind that application fees of this character do not belong to the State. The provisions of the State Finance Law do not apply to the temporary custodian of moneys, held for a period, awaiting developments upon an application for a license which may or may not ever be issued.

Such fees should be hereafter returned to the applicant by the Secretary of State without requiring such applicant to make an application for a refunding of the same from the State treasury.

Dated, May 4, 1920.

CHARLES D. NEWTON,
Attorney-General.

TO HON. FRANCOIS M. HUGO, *Secretary of State.*

INTEREST ON VILLAGE BONDS. SECTION 129, VILLAGE LAW; SECTION 21, GENERAL MUNICIPAL LAW.

The bonds of a village issued for the permanent improvement of streets of the village can bear interest at any rate at which they can be negotiated up to but not exceeding six per cent per annum.

INQUIRY.

Can the bonds issued by a village incorporated under the Village Law bear interest at a rate in excess of five per cent per annum.

OPINION.

It is provided by section 129 of the Village Law that bonds or other obligations of a village "shall bear interest at a rate not exceeding five per centum per annum, and shall be negotiated for not less than their par value."

It is also provided by section 21 of the General Municipal Law, as amended by chapter 23 of the Laws of 1918, that:

"If in any *general or special* law passed before January first, nineteen hundred and eighteen, authorizing or requiring an issue of bonds by a municipal corporation, or by any department, board, commission, or officer thereof, a maximum rate of interest on the bonds to be issued thereunder be prescribed, the rate of interest on such bonds hereafter issued in pursuance of such *general or special* law may be fixed by the department, board, commission or officer charged by law with the duty of issuing such bonds at any rate not more than the legal rate of interest, *notwithstanding the provisions of such general or special law prescribing a different maximum rate.* The term "municipal corporation" as used in this section includes a city, county, village, town, school district, sewer district, water district, lighting district or any other district or territory authorized by law to issue bonds, and the term "bonds" includes bonds, corporate stock, certificate of indebtedness or any other obligation whereby a municipal corporation agrees to pay a stated sum of money."

This section 21 of the General Municipal Law was first added to the municipal law by chapter 573 of the Laws of 1911, and remained in the same condition as originally enacted until it was amended by chapter 23 of the Laws of 1918, and the only change made by such last amendment consisted in striking out the words "heretofore passed" in the beginning of the section and in place thereof inserting the words "passed before January first, nineteen hundred and eighteen."

Section 129 of the Village Law was first enacted in the Village Laws by chapter 414 of the Laws of 1897, and incorporated in

the consolidation of the Village Law in 1909. It was amended by chapter 54 of the Laws of 1914 without change as to the rate of interest, and again by chapter 48 of the Laws of 1915 without change as to the rate of interest. The question arises which act prevails today as to the rate of interest which can be allowed upon village bonds issued since the enactment, chapter 23 of the Laws of 1918, providing that any and all municipal bonds can bear interest at the legal rate, notwithstanding the provisions of any general or special law, passed before January 1, 1918, to the contrary.

The Village Law is a general statute applicable to all villages incorporated under its provisions, but of course has special application to such municipalities. The General Municipal Law is a general statute applying to all municipalities unless its provisions are made inapplicable by some exception or saving clause in some other statute.

Section 129 of the Village Law was not directly referred to in section 21 of the General Municipal Law as it stood before the amendment of 1918, and is not specifically referred to in the act by which it was amended in that year, and if the Village Law was superseded or repealed by the passage of chapter 23 of the Laws of 1918, it is by implication.

It is a well settled principle that in the interpretation of statutes,—

“Laws special or local in their application, are not deemed repealed by general legislation, except upon the clearest manifestation of an intent by the legislature to effect such repeal, and ordinarily an express repeal by some intelligible reference to the special act is necessary to accomplish that end.”

People v. Quigg, 59 N. Y. 83-88.

People ex rel. Leet v. Keller, 157 N. Y. 97.

Matter of Evergreens, 47 N. Y. 216, and numerous other cases.

The broad language used in section 21 of the Municipal Law making it apply to every “general or special law” passed before January 1, 1918, indicates a clear and manifest purpose on the

part of the Legislature to allow all municipalities, regardless of the statutes under which they exist or are incorporated, to issue bonds with a maximum rate of interest up to the legal rate. The words "general or special law" appear twice in the short section and "to make assurance doubly sure" that particular portion of the section winds up with the words, "notwithstanding the provisions of such general or special law prescribing a different maximum rate." The phraseology of this statute is too plain, and the intent and purpose of the Legislature is too strongly indicated to permit of any other construction than that all municipalities, including villages, have the right to issue bonds at any rate of interest up to six per cent. I think there is the clearest manifestation of such intention.

Another argument presents itself in a consideration of this subject. It is this: The municipal law was amended at the session in 1918, during the world war, when everything had an upward tendency, and many villages would be very much handicapped in their municipal work if they could not be allowed to negotiate their bonds at a higher rate than five per cent. Such rate would perhaps be absolutely prohibitive to municipal improvement in some localities, and it is evident that the Legislature thought best to extend its provisions to all municipalities for the purpose of removing the difficulties which might surround some of them if they undertook to float their bonds with a five per cent rate of interest.

It was along the line of much of the legislation passed during the sessions of 1917, 1918 and 1919, to relieve conditions forced upon the country by the exigencies of war.

It is true that the same provision has been in the municipal law for some years, but it was broadened by the amendment of 1918, and made to apply to all bonds issued by any municipality under any statute, general or special, passed prior to January 1, 1918, and it is the last utterance of the Legislature upon the subject. In this connection, I desire to refer to another well-established rule of construction,—that where there is manifest repugnancy, or a conflict between existing statutes, the latest expression of the Legislature must control, and the last one will be deemed a repeal of the former statute which is inconsistent therewith.

People ex rel. Canti v. Kempner, 144 A. D. 339.

People ex rel. Fowler v. Bull, 46 N. Y. 57-68.

Lyddy v. Long Island City, 104 N. Y. 218.

The provisions of the two statutes are inconsistent and one or the other must give way and under the rulings of the court the latter must prevail.

Even if a village may make a rate of six per cent per annum as interest upon its bonded debt, it is not obliged to make such rate, but is at liberty to negotiate its bonds at any rate up to the legal rate and may still sell them at five per cent or under, if purchasers can be found for the same.

I am therefore of the opinion that the five per cent rate of interest provided by section 129 of the Village Law was superseded by the passage of chapter 23 of the Laws of 1918, and that villages are now permitted to fix the rate at any amount up to the legal rate of interest within this State, notwithstanding the provisions of section 129 of the Village Law.

Dated, May 13, 1920.

CHARLES D. NEWTON,
Attorney-General.

To P. H. MURPHY, *Village Attorney, Dolgeville, N. Y.*

TAX LAW — STOCK TRANSFERS OUTSIDE THE STATE.

If an agreement by which a voting trust was created and which conferred on either the owners of the beneficial interest or the voting trustees the right to require a transfer, was not executed within this State; and the certificates were held by non-residents and actually transferred on the books of the corporation without the State, the transfer is not taxable.

FACTS

The Buffalo & Susquehanna Railroad Corporation and Buffalo & Susquehanna Coal & Coke Company are corporations organized under the laws of the state of Pennsylvania. Such corporations maintain offices in the City of Buffalo, New York, wherein are kept "stock record" books. On December 30, 1913, a voting trust was created and two certificates, totaling 69,961 shares of the common and preferred stock, were issued in the names of five voting trustees. On March 30, 1914, both certificates were cancelled and new certificates issued in place thereof to one Lyman Rhoades.

The latter, on May 11, 1914, surrendered the two certificates of stock so issued to him and other certificates were issued in place thereof to certain other voting trustees. The voting trust expired in 1919 and was extended.

Upon each occasion, when transfers of stock were so made, the certificate books and transfer ledgers were taken to Du Bois, Pennsylvania, at which place the certificates were surrendered, the entries made and the new certificates issued. The certificates to be canceled were, in each case, forwarded by parties residing outside of the State of New York. Whether the certificates were actually received at the offices of the corporations in the city of Buffalo and then taken to Du Bois, or were received at Du Bois, does not appear. It further does not appear where the agreements were executed by which the voting trust was created and provision made for the transfer of the stock. The voting trust certificate books are in the control of the voting trustees, who have deposited them with certain companies acting as registrars and transfer agents and who have offices both in the city of New York and in the city of Philadelphia.

OPINION

Section 270 of the Tax Law reads in part as follows:

"Section 270. *Amount of tax.* There is hereby imposed and shall immediately accrue and be collected a tax, as herein provided, on all sales, *or agreements to sell*, or memoranda of sales of stock, and upon any and all deliveries or transfers of shares or certificates of stock, in any domestic or foreign association, company or corporation * * * whether made upon or shown by the books of the association, company or corporation, or by any assignment in blank, or by any delivery, or by any paper or agreement, or memorandum or other evidence of sale or transfer, whether intermediate or final, and whether investing the holder with the beneficial interest in or legal title to said stock, or merely with the possession or use thereof, for any purpose * * *. It shall be the duty of the person or persons making or effectuating the sale or transfer to procure, affix and cancel the stamps and pay the tax provided by this article * * *. In case

of an *agreement* to sell, there shall be made and delivered by the seller to the buyer, a bill or memorandum of such sale to which the stamp provided for by this article shall be affixed and cancelled."

Transactions somewhat similar to this have previously been called to the attention of the Attorney-General and opinions have been rendered by Attorney-General O'Malley on September 10, 1910, October 3, 1910 and December 19, 1910, and by Attorney-General Carmody on March 9, 1911 and December 4, 1911 and June 4, 1913. The opinion of June 4, 1913 reads in part as follows:

"I am of the opinion that if the contract of sale or transfer is made or effectuated within the State of New York, or if, as is often the case, the transfer on the books of the corporation is necessary to effectuate or render complete the transfer of title to the stock or is an essential prerequisite to the exercise of full ownership to the transferee, and such transfer is made within the State of New York, a tax is payable as provided for by section 270. If, on the other hand, the contract is made and executed without the State of New York and nothing is required to be done within the State to render complete the transfer of title to and beneficial ownership of the stock, the transaction is not subject to a tax merely because of the fact that a record of the transaction is kept pursuant to the command of Section 276."

In the instant case, the certificates apparently were held by non-residents. The actual transfer on the books of the corporation took place without the State, and it was the privilege of the corporation to take such books out of the State for such purpose as it might see fit. The physical acts necessary to complete a transfer of ownership of the shares of stock were actually performed outside of the State. The tax has no extra territorial effect. (*People ex rel. Hatch v. Reardon*, 184 N. Y. 431). If, however, the agreements by which the voting trust was created, and which had to do with the various transfers of stock, and which conferred on either Rhoades or the voting trustees the right to require a transfer

on the books of the corporation were executed within the State of New York, such agreements would be subject to the tax.

The particulars of the extension of the voting trust agreement do not appear from the statement of facts. If such agreement, however, required the surrender of the old certificates and the issuance of new certificates in place thereof, and such agreement was executed within the State of New York, it would be subject to the tax.

Dated, May 25, 1920.

CHARLES D. NEWTON,
Attorney-General.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Albany, N. Y.*

TAX LAW — STOCK TRANSFERS — VOTING TRUSTS — TRANSFERS BEFORE AND AFTER AMENDMENT TO STATUTE.

Where stock was transferred to voting trustees before the amendment of section 270 of the Tax Law in 1911, this transfer was not taxable; but where the stock was transferred from the voting trust in 1919, this last transfer is taxable.

FACTS

On the incorporation of the Banner Milling Co., April 4, 1908, 1,200 shares of the total issue of 2,100 shares were transferred to the Buffalo Trust Co., with an agreement with the latter that it was to vote for certain directors named in the agreement and was to have no other interest or power whatsoever by reason of its possession of the shares. This agreement terminated in 1919 and the stock was transferred by the voting trustees to the original owners. No sale of the stock took place during the period that the voting trust agreement was in existence.

OPINION

The original issuance of stock to the Buffalo Trust Co., as trustee, occurred prior to the amendment of section 270 of the Tax Law in 1911. As has been previously held in former opinions issued by the Attorney-General's office, this issuance of stock was not subject to the stock transfer tax.

At the time of the amendment, however, the title to the stock was held by the trustee, irrespective of the fact that the beneficial interest might have remained elsewhere. The trustee had physical

possession of the certificates of stock and exercised certain incidents of ownership. In 1919, upon the surrender by the trustee of the certificates and the transfer of the possession of the same together with the title thereof to the so-called original owners, the tax became payable. The provisions of section 270 imposing a tax upon "all sales or agreements to sell * * * and upon any and all deliveries or transfers of shares or certificates of stock whether made upon or shown by the books of the association, company or corporation, or any assignment in blank, or by any delivery, * * * whether intermediate or final, and whether investing the holder with a beneficial interest or legal title to said stock or merely with the possession or use thereof for any purpose," were designedly made broad enough to cover transactions of this character.

Dated, May 25, 1920.

CHARLES D. NEWTON,
Attorney-General.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Albany, N. Y.*

BOXING AND SPARRING ACT, CHAPTER 912, LAWS OF 1920, SECTION 192 OF THE
MILITARY LAW.

Officers having charge and control of armories, with the approval of the division or brigade commander, may lease such armories to a licensed corporation to hold therein boxing and sparring matches or exhibitions for a portion of a day or night in each week or month during a rental period of one year upon such corporation fully complying with all the provisions of section 192 of the Military Law.

INQUIRY

Can the officer in charge and control of an armory enter into a contract or lease under section 192 of the Military Law with a corporation, which would permit of the holding of boxing or sparring matches in such armories under the Walker Bill?

OPINION

Chapter 912 of the Laws of 1920 generally known as the "Walker Bill" is an act "allowing and regulating boxing and sparring matches, and establishing a State Boxing Commission."

The bill provides for the appointment of a commission to be

known as a State Boxing Commission, fixes the salaries of the Commissioners, and outlines its powers and duties. It also provides for the appointment of a license committee consisting of three persons to be appointed by the Governor, who are to serve without compensation, and the duties and jurisdiction of such license committee are indicated in sections 6 and 7 of such act, as follows:

“Section 6. *Jurisdiction of committee.* The license committee is hereby given the sole control, authority and jurisdiction over all licenses to hold boxing and sparring matches or exhibitions for prizes or purses or where an admission fee is received, and over all licenses to any and all persons who participate in such boxing or sparring matches or exhibitions, as hereinafter provided.

“Section 7. *License to corporations.* The license committee may, in its discretion, issue a license to conduct, hold or give boxing or sparring matches or exhibitions, subject to the provisions thereof, to any corporation duly incorporated under the laws of the State of New York, but not otherwise. *Such corporation must hold a lease of a term of at least one year of the premises in which such match or exhibition is to be held.*”

It is also provided in section 2 of the act, in part as follows:

“Where such match or contest is authorized to be held in State or city owned armory the provisions of the Military Law in respect thereto must be complied with.”

It is quite manifest by the above sentence that the Legislature contemplated the use of armories for matches and contests held under the terms of the act, and intended to authorize the leasing of such buildings for such purposes under proper conditions when such use would not in any way conflict with the occupation thereof for military purposes. It is evident that such contemplated use of armories by corporations will be completely defeated unless such corporation can secure a lease or leases of such armories for a term at least of one year. The language used in the last sentence of section 7 of the Boxing Act is mandatory, and absolutely

prohibitive of such use of armories by corporations unless the corporation desiring to hold a match in a particular armory holds a lease thereof for at least one year. It does not follow that such a lease must be a continuous lease of the armory for every day of the year, or of the whole armory for any particular days, but a lease of some right or privilege for a portion of the time for a year is imperative.

It is provided in section 192 of the Military Law that besides the ordinary use of armories for military purposes, they can be used

“For such other purposes not interfering with its use by the troops quartered therein as may be approved by the officer having charge and control of the armory and his division or brigade commander, as the case may be, provided that when such use is not by an organization of the National Guard or Naval Militia there shall first be executed by the person, association, corporation or co-partnership applying to use the same and by a surety company a bond to the people of the State,” etc.

It is clear that an armory can be rented to a corporation for certain purposes when its use for some civil purpose will not interfere with its use for military purposes, and it is fairly within the purview of the act that it can be rented for such period as the officer having charge and the division and brigade commander may approve.

In times of peace the use of such armories can be easily dispensed with for military purposes, one day or evening a month or a week, as the necessities of the corporation may require, and such a rental would be fairly within the provisions of section 192, but any such lease should contain a condition that in the event of war, insurrection, riot or public disturbances of any kind which would necessitate the use of such armory by active militia, national guard, troops, cadets or other military organization, the use thereof by such corporation under its lease should be wholly suspended until such time as peaceful conditions shall be restored and the officer in charge may give his approval to a resumption of

the use by the corporation, and also reserving the right to the military authorities having charge of the armory to cancel and revoke the lease and terminate all rights and uses thereof by the lessee whenever the military necessities of the armory may require the whole use thereof and that the military authorities having such charge shall be the sole judges of such necessities and the right to exclude the said lessee, his agents, servants and employees from all right and privileges therein, without the payment of any damages or other compensation to the said lessee on account of the cancellation or termination of such lease, other than a rebate of the rent for the balance of the term.

I am therefore of the opinion that the armories can be leased for certain dates to a corporation for the purposes of holding boxing and sparring matches therein upon conditions hereinbefore indicated, for a term of one year, upon days or evenings when such use will not interfere with military activities therein.

Dated, May 27, 1920.

CHARLES D. NEWTON,
Attorney-General.

To HON. CHARLES W. BERRY, *Adjutant-General.*

**CIVIL SERVICE LAW, SECTION 22 AS AMENDED BY LAWS 1920, CHAPTER 833.
NATIONAL GUARDSMEN IN FEDERAL SERVICE DURING THE WORLD WAR AS
VETERANS.**

An honorably discharged member of the National Guard, who was in the service of the United States under the call of the President during the World War, is entitled to the protection of section 22 of the Civil Service Law as amended by Laws 1920, chapter 833.

INQUIRY

Does the amendment to section 22 of the Civil Service Law by L. 1920, c. 833, extending the protection thereof to honorably discharged soldiers, sailors and marines having served in the army or navy of the United States in the World War, grant the benefits of that section to a member of the national guard who was called into Federal service by the President and served under the United States after the declaration of war against Germany and before the national guard was drafted into the Federal army but who was discharged prior to that draft?

OPINION

Section 22. of the Civil Service Law grants certain rights to veterans by chapter 833 of the Laws of 1920. The words "or in the world war." were inserted in the description of the veterans protected so that now the protection applies, in addition to those theretofore protected, to a "person holding a position by appointment or employment in the state of New York or in the several cities, counties, towns or villages thereof who is an honorably discharged soldier, sailor or marine, having served as such in the army or navy of the United States * * * in the world war * * *."

On April 6, 1917, Congress declared that a state of war existed with Germany. Thereafter the President called into Federal service a number of national guard units. Finally, by a proclamation, dated July 25, 1917, the entire active personnel of the national guard, with the exception of general officers, was drafted into the army under the terms of section 111 of the National Defense Act, and section 1 of the Selective Service Law. The effect of this draft was to discharge the persons so drafted from the militia. Prior to the draft, however, certain members of the national guard were discharged while in the service of the United States.

In my opinion the persons so discharged are entitled to be considered as having served in the army or navy of the United States during the world war. Section 101 of the National Defense Act provides:

"The National Guard when called as such into the service of the United States shall, from the time they are required by the terms of the call to respond thereto, be subject to the laws and regulations governing the Regular Army, so far as such laws and regulations are applicable to officers and enlisted men whose permanent retention in the military service, either on the active list or on the retired list, is not contemplated by existing law."

In other words, members of the national guard, while in Federal service, were regarded in exactly the same light as members of the regular army whose permanent retention in the military service was not contemplated — a situation similar to that of men

volunteering for the duration of the war, or members of the officers reserve, the enlisted reserve, the medical reserve, etc., called for duty. The United States Government paid to these men the same bonus (under Act of Congress, Feb. 24, 1919) as was paid members of the regular army, both volunteers and drafted men. I see no reason why the State of New York should draw a distinction against these men who were regarded by the United States, for all purposes, as members of the army. I therefore advise that members of the national guard whose honorable discharge papers show the performance of military duty in the service of the United States under call of the President, between April 6, 1917, and October 11, 1918, be considered entitled to the protection of section 22 of the Civil Service Law. The fact that such service may have commenced prior to April 6, 1917 will make no difference if it continued thereafter.

Dated, June 5, 1920.

CHARLES D. NEWTON,

Attorney-General.

To JOHN J. McGRATH, Esq., *Superintendent of Public Works,*
Albany, N. Y.

CIVIL SERVICE LAW, ARTICLE 4 AS ADDED BY LAWS 1920, CHAPTER 741.
PENSIONS — RETIREMENTS.

1. Prior service in a department in which an employee is no longer employed is entitled to credit in computing total service, regardless of the fact that that department now has a retirement system.

2. An employee in a department which has a retirement system, who is not a member of that system and cannot now become a member, is entitled to become a member in the new State Employees' Retirement System.

3. Employees who do not become members are in no way affected by the statute.

INQUIRIES

Under Article 4 of the Civil Service Law as added by c. 741, L. 1920:

1. Should service rendered to the State previous to or since the enactment of any other retirement laws relative to State employees, such service being in a department to which the other retirement laws now apply, be credited to a person who is now rendering service to the State in a bureau or department whose employees are not now entitled to benefit by existing laws other than L. 1920, c. 741?

2. If an employee of any of the several departments to which Article 5 of the Insanity Law is applicable, and who has had previously, some two years ago, the opportunity to become a member of the Hospital Retirement System, refused it, may he now become a member of the New York State Employees' Retirement System?

3. If an employee, now in the service, fails to become a member, and reaches the age of seventy subsequent to January 1, 1925, may he continue in the service thereafter?

OPINION

The fact that an employee is or has been in a branch of the civil service to which some other retirement law applies does not appear to make any difference with respect to his status, unless he is or may be now or hereafter entitled to benefit by existing laws providing for pensions and annuities. (Section 52, paragraph 2.) The definitions of State service, prior service and total service (section 50, paragraphs 8, 9 and 10), do not exclude service in departments which had or have retirement systems. The law provides for the admission to membership in the New York State Employees' Retirement System of present or future employees, except those who are or may be entitled to benefit by some other existing laws providing for pensions, etc. The exclusion applies only to those who still may get the benefit of the other statutes. Those who formerly served in departments when there were no pension systems and left those departments to enter other departments, are not excluded by reason of the fact that the departments which they left have since acquired retirement systems. The answer to the first inquiry is that service rendered in one department by an employee now in another department should not be excluded in computing prior service by reason of the fact that the first mentioned department now has a pension system. The fact that it now has a pension system does not help that employee at all, and it seems to be the purpose of the law to admit every employee who is not in a position to get a pension under some other law.

Carrying out this purpose, it is my belief that the law intended to admit any employee who is not now in some other retirement system and cannot now join one. The fact that an employee

refused to join a retirement system in the past, and thereby precluded himself from joining it now, does not keep him out of the new system. I therefore answer the second inquiry as follows: An employee of a department having an existing retirement system, who has not become and cannot now become a member of that retirement system, is eligible for membership in the new system.

The statute makes no provision for retirement of persons not members, nor for the removal of such persons without pension or annuity. Section 62 provides: "Retirement of a *member* for superannuation shall be made by the Comptroller as follows: 1. Any member in State service may be retired * * *. 2. Any member in the State service attaining the age of seventy years shall be retired * * *." Section 63 provides: "Upon retirement for superannuation a member shall receive a retirement allowance * * *." It is perfectly clear that these sections apply only to members, and provide only for retirement with allowances. There is nothing to indicate any intent to place an age limit upon non-members. I therefore answer the third questions as follows: An employee now in the service, who refuses to become a member of the system, does not in any way come under the provisions of the act, and the act cannot be considered to compel his retirement on reaching the age of seventy subsequent to January 1, 1925.

Dated, June 8, 1920.

CHARLES D. NEWTON,
Attorney-General.

To HON. EUGENE M. TRAVIS, *State Comptroller, Albany, N. Y.*

TAX LAW, SECTION 270 — TRANSFER TO AND FROM TRUSTEES — BEFORE AND AFTER AMENDMENT OF 1911 — ISSUE WITHOUT CONSIDERATION.

Although an issue of stock directly to a trustee without consideration may be illegal, such an issue is not taxable. Where stock was transferred three years before the Stock Transfer Law was enacted, although the transfer was not noted upon the books until eight years after the enactment of the law, the transfer is not taxable.

FACTS

1. The Rochester Hotel Corporation, under resolution of the board of directors, issued 1,800 shares of stock to M. E. Wolff as trustee "for the purpose of making division of that stock as

a bonus to the purchasers of the bonds of the Corporation." The suggestion is made that there must have been an intervening owner who received the stock for value and transferred it to Wolff, and that such transfer was subject to the tax.

2. A certificate for certain shares of stock in the Lockport and Newfane Power and Water Supply Company, was in the year 1902, duly assigned to and delivered to the Girard Trust Co., as trustee under a certain mortgage, and to be held as collateral security under such mortgage. The certificate was retained by the trust company, but no actual transfer on the books of the corporation made until 1913. The Stock Transfer Law was enacted in 1905. Inquiry is made as to whether the transfer in the books in 1913 is subject to the tax.

OPINION

The two cases submitted will be considered in the order stated.

1. The issue of stock direct to Wolff, whether as trustee or otherwise, if made without payment of full value therefore, was illegal and in violation of the provisions of section 55 of the Stock Corporation Law. Such issue might subject both the corporation and the directors to proceedings by stockholders or the Attorney-General.

It cannot be inferred, however, that because the officers of the corporation should not violate the law, that they have not done so. In the absence of information as to the existence of an intervening recipient of the stock for value, before its transfer to the trustee, no payment of a tax can be required. If it be determined that there has been an evasion of the payment of the tax by the performance of an act forbidden by section 55 of the Stock Corporation Law, the facts should be reported to the proper State officers for action thereon.

2. It was held by Attorney-General O'Malley in an opinion rendered February 8, 1910, that such a transfer was not taxable.

Section 270 of the Tax Law makes division of various acts which may all be incidents of one transfer, and provides that any one of such incidents may under certain circumstances be subject to the tax.

The actual agreement for transfer may be made without the State and yet the transfer on the books of the corporation within

the State may be taxable. The law, nevertheless imposes but one tax on any one transfer, and the transfer in the instant case may be regarded as dating from the actual assignment and delivery of the certificate of stock. (See also *Travis v. American Cities Co., et al.*, just decided by the Appellate Division, First Department and not yet reported).

Of course, I assume that the transaction described was all in good faith; the Comptroller's powers are adequate to investigate any transfer made for the purpose of evading the tax. Where such evasion is found the tax must be paid.

Dated, June 16, 1920.

CHARLES D. NEWTON,
Attorney-General.

To HON. EUGENE M. TRAVIS, *State Comptroller, Woolworth Building, New York City.*

CIVIL SERVICE LAW, SECTION 22-A AS ADDED BY LAWS 1920, CHAPTER 836.
PREFERENCE IN RETENTION ON ABOLITION OF POSITIONS.

Section 22-a of the Civil Service Law as added by Laws 1920, chapter 836, reasonably construed, provides for preference among persons holding identical positions in the same bureau or department, when the number of positions is reduced. The preference in retention is based upon the date of appointment to the position held.

INQUIRY

Due to lack of work and for reasons of economy it will be necessary, within a short time, for the State Engineer to make reductions in the force of engineers and assistants now employed in his department. In view of the provisions of chapter 836 of the Laws of 1920, the following questions arise with respect to the suspension of men to be laid off:

(1) Does an original appointment mean the date originally appointed regardless of any intervening time in which the employee may have been out of the service?

(2) A senior assistant engineer entered the service as chainman in 1901; was out of the department for two years and re-entered as leveler in 1905. Which date is to be considered the original appointment in the service?

(2) Does it refer to original appointment in the present position or to original appointment to any position in the classified service?

(a) Two junior assistant engineers are doing a similar work and receive like salary. "A" entered the Department as laborer in 1910 and became a rodman in 1915 and a junior assistant engineer in 1917. "B" entered the Department as chainman in 1912 and became a rodman in 1913 and a junior assistant engineer in 1917. What is the date of original appointment in the service as referred to in the law?

(3) Does the word "position" refer to title, the group and grade by which men are classified by the civil service; or does it refer to situation or location?

(a) For example; some of the assistant engineers, group D, grade 1, are field engineers in charge of construction work, while others are bridge designers, etc. Assume that an assistant engineer entered the service in 1904 and at present is in charge of construction work which will be completed shortly; assume also another assistant engineer entered the service as such in 1910 but has been and is now assigned as a bridge designer; and assume also that the necessity for a bridge designer continues, which man may be legally suspended?

(b) As another example, assume that an assistant engineer who entered this grade in 1912 has charge of a Barge Canal contract at Buffalo, and another man who became an assistant engineer in 1905 is on terminal construction work in New York City. Assume the work at Buffalo is to continue and the other close, and that the assistant engineer at Buffalo is best qualified by training and experience to perform this work. Which of these two men may legally be suspended?

(c) As another case, assume that an assistant engineer in charge of terminal construction work at Rochester and another man is doing general office work; that the field work is to continue but the office work is to close; that the office man's services prior dates the field man's by eight years. Which of these two men may legally be suspended?

(4) Does the word "position" refer to the group in which men are classified in the engineering grades by the civil service or does it refer to similar salaries within the group?

(a) In the group assistant engineer, for example, there are two grades: Grade 1 includes mechanical engineer and draftsman, assistant engineer; salary range, \$2,400, \$2,520, \$2,700. Grade 2; bridge designer, assistant engineer, salary range, \$2,820, \$2,940, \$3,060, \$3,240.

(b) An assistant engineer receiving \$3,060 or \$3,250 was appointed in 1910 and is in charge of a large contract. He has an assistant engineer at \$2,400 or \$2,820 working under him as an assistant. The latter was originally appointed in 1909. The work now only requires an engineer in charge. Which one may legally be suspended?

(c) A junior assistant engineer entered the department as laborer in 1910 and became a rodman in 1915 and a junior assistant engineer in 1917. He now receives \$2,400 per year and is specialized as an assistant on designing work. Another junior assistant engineer entered the department in 1912 and became a rodman in 1913 and a junior assistant engineer in 1917. He receives \$1,800 per year and is an assistant in field work. The services of the junior assistant engineer on design and office work is needed and the field man is not needed. Which one may be legally suspended?

(5) Does the fact that the engineering grades in this department were re-classified by the Civil Service Commission in 1917 have any bearing on the case?

(6) Does an original appointment refer to appointment in this department or would it include service of prior date in another department, if any?

OPINION

Chapter 836 of the Laws of 1920 adds a new section 22-a to the Civil Service Law. This is not an amendment of section 22-a as added by Laws 1918, chapter 211, but a new section with a duplicated number. The same carelessness which appears in the numbering characterizes the phraseology of the act, and it is difficult to determine from its language exactly what was the legislative intent.

The new section provides:

"Whenever a position in the competitive class or qualified grades in the civil service of the state or any civil division

or city thereof is abolished or made unnecessary, the person holding such position shall be deemed to be suspended without pay. Such suspension shall be made in the inverse order of their original appointment in the service and such person so suspended shall be entitled to reinstatement in that or any corresponding or similar position if within two years thereafter there is need for his services. It shall be the duty of the department or office in which such position has existed to furnish the names of all persons so suspended to the state civil service commission, or if the position is in the service of the city, to the municipal civil service commission of the said city, with a statement in the case of each of the date of his original appointment in the service, the nature of his work and his compensation and the cause of his suspension. It shall be the duty of the state civil service commission, or if the person or persons affected have been in the service of a city, of the municipal civil service commission of the said city, forthwith to place the names of said person or persons on a list of suspended employees, and for two years thereafter to certify from said list the persons thereon in the order of their original appointment for reinstatement or re-employment for the same class and grade of work at which they had been employed, before making certification from any other list. The failure of the person on any such list for reinstatement or re-employment to accept after reasonable notice any office or position in the same city, if he has been in the service of a city, or in the same county, if he has been in the service of a county, or in the state service, if he has been employed therein, involving the same class and grade of work, and at the same salary or wages as he received in the position formerly held by him, shall be held to be a relinquishment of his rights to reinstatement as herein stated. Nothing in this section shall be construed to apply to the position, in the exempt or noncompetitive class or grade, of private secretary, cashier or deputy for any official or department, nor affect the rights of honorably discharged soldiers, sailors or marines, or volunteer firemen."

The first sentence of the section would seem to refer to the abolition or discontinuance of single positions. The second sentence however says "Such suspension shall be made in the inverse order of *their* original appointment * * *." Although the plural relative "their" has no plural counterpart in the preceding sentence, it indicates an intent to establish an order of preference in removals, and one must conclude that the intention of the act is to provide for cases where the number of similar positions in a department is reduced, as well as for cases where a single position is discontinued.

I cannot believe that the intent was to carry the preference in retention beyond identical positions in the same department or bureau of the State or of the same subdivision or city. The language of the first part of the section is broad enough to bear the construction that if a position in the county service of one county be abolished, one holding a similar position in another county must be removed first, if his "original appointment" were later than that of the incumbent of the position first mentioned. The absurdity is so obvious that it is unnecessary to discuss it. And I think it is equally obvious that there is no preference running between different departments in the State service — for example, I think nobody would claim that an assistant engineer in the State Engineer's Office, whose position became unnecessary, would be entitled to have an assistant engineer in the Highway Department suspended before him, merely because the latter were junior in the service. The head of the department is required to certify the "date of original appointment" and he cannot be charged with knowledge of the date of an appointment in another department or political division.

In short I do not think the act contemplates *transferring* a man from one position (which has been abolished) to another which continues, and the displacing of the incumbent of the second position (if he happens to have spent less time in the service).

And I believe this true even with respect to positions in the same department or bureau. When the time for reinstatement of a suspended employee comes, he is entitled to certification for

reinstatement to a *similar* position, "for the same class and grade of work." This is equivalent to a transfer under the other provisions of the Civil Service Law and Rules, and those provisions should govern the construction of the new section as far as reinstatements are concerned. A man may be transferred from one position to another "similar" position—that is another position which his education (as demonstrated by examination) and his experience in the position he is leaving qualify him to fill. But the test of qualifications for transfer or reinstatement is different from the test for preference in suspension. A man may be transferred to a "similar" position, but he is not entitled to displace a man holding a "similar" position, he may only be kept in the service in preference to another holding the *same* position. If there be a number of positions exactly alike, where employees are doing identical work, interchangeably, and the number of such positions be reduced, the preference would apply; otherwise not. For example: if there be ten stenographers in a bureau, being sent indiscriminately to take dictation from the same men, and the number be reduced, the lay-off must be in inverse order of appointment. But if in a department there were two "clerks," one assisting the auditor with his accounting and the other assisting counsel in his legal work, they would not hold the same *position*, even though their titles were the same and they were in the same grade (that is both drew salaries between the same arbitrary limits). If the auditor found that he no longer needed a clerk, his clerk, even though longer in the service, could not displace the counsel's clerk.

We should not confuse *title* and *position*. Two persons holding the same *title* may hold very different *positions* and neither may be qualified to fill the position of the other. There is nothing in the statute showing any intent to give one the right to displace the other. On the contrary, the statute requires the head of a department, on suspending a man, to certify the *nature of his work*, which indicates the thought that men doing work of different natures hold different positions. Also the fact that certification must be "for the same grade or class of work" indicates that even in the same grade and class of work there may be different *positions*. A good example is shown in the inquiry (3-a).

Under the title "Assistant Engineer" are construction engineers in charge of field work and bridge designers. While they all hold the *title* of "Assistant Engineer," some hold the *position* of field engineer and others the position of bridge designers. While some field engineers might make good bridge designers, and some bridge designers might make good field engineers, the chances are that they are specialized in their several lines, and to give a field engineer the right to displace a bridge designer because there was no longer need for him as a field engineer would not only be an absurdity, but would be directly contrary to the spirit of the Civil Service Law and the constitutional provision — seeking to have the holding of positions depend upon merit and fitness.

Experience in a given line of work, proved by holding a position in that line through a long period, is evidence of fitness — for that line. But not for a different line. And when the Constitution requires appointments and promotions to be based on merit and fitness, it does not contemplate the preference of the unfit in reduction of positions.

This brings us to the question of the meaning of the phrase "original appointment in the service." Here again the statute is carelessly drawn. The phrase might mean almost anything. "Original appointment" may mean anything from the first of several appointments, even though separated by years of private life, to appointment in the position presently held. And if it refers to the first of several appointments, it might be that the different positions held were of extremely unlike natures. "The service" might mean anything from employment at public expense, to employment in the position presently held.

If we should put the broadest possible construction on the phrase we would have to hold that a man who in 1885 held a position of page in the Legislature for four months, and who was appointed stenographer in the office of the chamberlain of New York City in 1920, would be preferred as against another who had been stenographer in the chamberlain's office for twenty year last past. Nobody would suggest that the Legislature intended any such absurdity. But what did they intend?

I think we must construe the statute in the light of the *merit and fitness principle*. As I have said, merit and fitness may be

demonstrated by long service. But neither merit nor fitness for one position can be demonstrated by long service in another. A man who by long and faithful service as a copyist might demonstrate both merit and fitness for that position, might neither merit nor be fit for a position of trust, requiring the handling of moneys and accurate accounting. Long service as bridge designer might demonstrate the fitness for such a position of a man physically or mentally incapable of handling a gang of men in construction work. But both are classified under the same title, and the examinations for promotion to both such positions might be open to the same group of junior assistant engineers. Experience as junior assistant engineer assisting a bridge designer, would be no criterion of fitness for the position of assistant engineer in charge of construction — but the junior assistant to the bridge designer might, on examination, be promoted to be a construction engineer. In that case his fitness would be demonstrated by the examination rather than by his long service.

I am forced to the conclusion that the only reasonable construction to be put upon the phrase "original appointment in the service" as used in the statute is that it was intended to mean original *appointment to the position held* at the time of its abolition, and that only continuous service should be considered. A man appointed to a position in 1880 who resigned in 1881, and was re-appointed in 1919, should not be preferred over a man who has held continuously since 1890. And a man who has been in the civil service, even in the same bureau of the same department, holding various lower positions, since 1895, who was promoted or transferred to a stated position in 1919, should not be preferred over a man who has held that stated position continuously since 1900. The latter man has unquestionably demonstrated fitness for the position he holds, the former very possibly has not — at least not in anything like the same measure.

My opinion is therefore that the statute should be construed as follows: When a single position is abolished, the incumbent is entitled to be listed and certified for reinstatement in the same or a similar position, before certification is made from any other list. When a number of persons hold the *same position* (not the same title) and the number is to be reduced, suspension must be

in inverse order of appointment to that position, and the persons removed must be placed upon the preferred list and certified in the chronological order of their appointments to that position.

I will now undertake to answer specifically the questions contained in the inquiry:

(1) Continuous service is contemplated.

(a) The appointment to the present position should be considered.

(2) Appointment to the present position is contemplated.

(a) The one first appointed to the present position is entitled to preference in retention.

(3) The word "position" does not refer to title, group or grade, but to what is colloquially termed the "job."

(a) The field engineers hold one position, the bridge designers another, regardless of their titles. On abolition of a position of field engineer, it is not necessary to remove a bridge designer and transfer a field engineer who may not be qualified to design bridges.

(b) Engineers in charge of barge canal construction and engineers in charge of terminal construction hold different positions if the nature of their work is different. Either may be abolished without interference with any person holding the other.

(c) Engineers in charge of construction and engineers doing general office work would seem to be doing work of different natures. If so they hold different positions.

(4) Two positions can hardly be the same if the salaries are different. Salary is one of the elements considered by the Legislature in requiring certification to the Civil Service Commission of the names of suspended men.

(a) A \$2400 man and a \$2700 man can hardly be said to hold the same position—one has more responsible or more arduous duties than the other, or is better qualified and delivers more work. One man holds a "better job" or a "bigger job" than the other. The discretion of the head of the department as to which position to abolish is not interfered with, and there is no provision for transfer. And if the \$2700 position is abolished its incumbent cannot displace the \$2400 man at the latter salary,

any more than could the \$2400 man displace the \$2700 man, should the \$2400 position be abolished. This applies even more forcibly as between positions in different grades.

(b) Either position may be abolished, without interference with the other. It is to exercise discretion in such matters that we have heads of departments.

(c) The positions are different both by reason of difference in nature of work and difference in salary. Either may be abolished without interference with the other.

(5) The title or classification has nothing to do with the case. Incumbency in a position controls, and change of title does not change a *position* if the duties remain the same.

(6) "Original appointment" must mean appointment to the position in the department, except where the position as well as the incumbent has been transferred from one department to another. When the control of highways was transferred from the State Engineer to the Highway Commission, and when the corporation tax was shifted from the Comptroller's jurisdiction to that of the Tax Department, certain employees were transferred from one department to another without change of duties or of position. Length of service in the *position*, should control in such cases, regardless of change in departmental control.

Dated, June 16, 1920.

CHARLES D. NEWTON,

Attorney-General.

TO HON. FRANK M. WILLIAMS, *State Engineer and Surveyor,*
Albany, N. Y. .

MILITARY LAW, SECTION 245, SUBDIVISION 8. LAWS 1920, CHAPTERS 248 AND 630. STATUTES. CONFLICTING AMENDMENTS TO SAME SECTION.

Chapters 248 and 630 of the Laws of 1920 each added a new subdivision 8 to section 245 of the Military Law. The two new subdivisions being inconsistent, the later one must be deemed to repeal the former.

INQUIRY

Chapter 248 of the Laws of 1920, effective April 19, 1920, amended section 245 of the Military Law by adding a new *subdivision*, to be subdivision 8, to read as follows:

"An officer or employee of the State who entered the Federal Military, Naval or Marine service subsequent to April sixth, nineteen hundred and seventeen without the consent of the Governor as required by this section or by chapter four hundred and thirty-five of the laws of nineteen hundred and seventeen, and who shall have been in the service of the State previous to the declaration of war and who shall have been honorably discharged from such service, shall be entitled to the rights and privileges conferred by this section in the same manner and to the same extent as though he had procured the consent of the Governor to enter the Federal service."

Chapter 630 of the Laws of 1920, effective May 10, 1920, amended section 245 of the Military Law by adding a new subdivision 8 to read as follows:

"An officer or employee of the State who entered the Federal Military, Naval or Marine service subsequent to April sixth, nineteen hundred and seventeen without the consent of the Governor as required by this section or by chapter four hundred and thirty-five of the Laws of nineteen hundred and seventeen, and who at the time of such entrance shall have served as such State officer or employee for the period of at least one year immediately prior thereto and who shall have been honorably discharged from such service, shall be entitled to the rights and privileges conferred by this section in the same manner and to the same extent as though he had procured the consent of the Governor to enter the Federal service and shall be paid such part of the salary or compensation which he would have received as such officer or employee in excess of the compensation paid to him for the performance of his duty in the military, naval or marine service described in this section, notwithstanding his failure to procure such consent of the Governor."

This chapter also made an appropriation of \$25,000 for the purpose provided in subdivision 8 as added thereby.

Should the later enactment be considered as superseding the former, or should both be given effect?

OPINION

It sometimes happens that the same number is given in the Legislature to two entirely different amendments to a given law. The mere conflict of numbers will not, of course, repeal the earlier statute. For example, section 22-a of the Civil Service Law was added by chapter 211 of the Laws of 1918 and another section 22-a, on an entirely different subject, was added by chapter 836 of the Laws of 1920. There is no conflict or inconsistency between the statutes and both undoubtedly remain in force.

But in the case of the amendments quoted above, they refer to the identical subject matter and are quite inconsistent. Chapter 248 was introduced in the Assembly on March 1st. At the time of its introduction it contained the words "and who at the time of such entrance shall have served as such State officer or employee for the period of at least one year immediately prior thereto" as a limitation on those entitled to the benefit of the subdivision. This limitation was stricken out in committee and the bill was reported on March 10th, in the form in which it is quoted above, and passed the Assembly on March 22nd. It was passed in the Senate on April 9th and signed by the Governor on April 19th.

After this bill had passed the Assembly and was in the hands of the Senate, the other bill, which became Chapter 630, was introduced in the form in which it is quoted above. It was referred to the Committee on Military Affairs, the same committee which had considered the former bill, but was not amended. There can be no doubt that the committee was aware of the passage of the first bill and of the similarity in the two bills.

The later act carries the provision that persons to be benefited by it must, at the time of entrance into military service, have served as State officers or employees for the period of at least one year, but it also adds the provision for salary which he would have received, etc., not mentioned in the first statute. Otherwise the two acts are not only similar but identical. The suggestion that the second bill was introduced in ignorance of the existence of the first bill cannot be entertained. It is perfectly clear that the first bill was unsatisfactory to the persons who drew and introduced the second bill, and since the second bill was passed we must impute the same intent to the Legislature as a whole.

The two bills are not consistent and it would be absurd to suggest that the Legislature intended both to remain in effect. If the first bill is to be regarded as remaining on the books, there would be absolutely no necessity for the second. To consider both bills in effect would be to attribute to the Legislature an intent similar to that of the humorist who cut a large hole in the barn door for the cat, and a small hole alongside of it for the kitten.

I must conclude that it was the intent of the Legislature to have the second act repeal the first in so far as they are inconsistent, and since everything that is in the first act is also contained in the second, we may consider the first act as completely superseded just as if the introductory clause of the second bill had read: "Subdivision 8 of section 245 of the Military Law as added by chapter 248 of the Laws of 1920 is hereby amended to read as follows:".

Dated, June 24, 1920.

CHARLES D. NEWTON,
Attorney-General.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Albany, N. Y.*

TAX LAW—STOCK TRANSFERS—EXPIRATION OF VOTING TRUST—TRANSFER TO NEW VOTING TRUST—ORIGINAL ISSUE TO VOTING TRUST.

At the expiration of a voting trust after the statutory period of five years, the creation of a new trust or a continuance of the old requires a new transfer of stock which is taxable.

Yet, under the rule established in *Hudson & Manhattan R. R. Co. v. The State*, 227 N. Y. 233, only one tax accrues where prior to the termination of a voting trust the owners of the equitable title agreed or directed that the original trustees should transfer their legal title to the new trustees. In such a case there would be but one transaction without a reversion of the legal title to the equitable owners.

Where stock is directly issued to a voting trust at the direction of one paying the consideration therefor, this may be regarded as an original issue of stock and no tax would accrue on this transfer; yet, where the person paying the consideration may retain an equitable interest in the stock by arrangement with the trustees or recipients, a tax does accrue.

FACTS.

1. Upon the termination of a voting trust agreement, the object desired during the life of the trust not having been accomplished, the voting trust is "continued" for a further specified time. Pursuant to the agreement of continuance the voting trust certificates held by the beneficial owners of the stock are surrendered and

new certificates are issued bearing the date of the extended term of the trust. The trustees remain the same and the original certificates of stock remain on deposit. Inquiry is made as to whether any tax is payable.

2. Certain stock of the Lisk Manufacturing Company, Ltd., was transferred in 1908 to trustees under a voting trust agreement which expired in 1913, when the stock was returned to the owners thereof. The voting trust agreement was extended for an additional five years, and in pursuance thereof the stock was transferred by the owners to the trustees under the second trust. In 1918 a third trust was created, the certificates of stock being transferred directly from the trustees under the second trust to the trustees under the third trust. The third voting trust agreement provided as follows:

“The purpose and effect of this agreement is to extend for a period of five years, the voting trust created by an agreement dated as of July 1st, 1913, hereinafter referred to as the old voting trust agreement. In order therefore, to avoid the necessity of the transfer and re-transfer of stock now subject to the old agreement, the stockholders hereto, whose stock is now subject to that agreement, hereby authorize and direct the voting trustees of said old voting trust agreement to assign and transfer such stock direct to the said trustees in the present voting trust agreement.”

The question presented is, what taxes should be paid upon these various transfers.

3. It appears that one W. Bundy Cole made an offer to the Black & White Taxi Company, a corporation, to transfer certain assets and stock of other corporations to it in exchange for stock of the corporation to be issued to him or to his nominees. Such offer was accepted and he named certain voting trustees to whom the stock was issued. Inquiry is made as to what tax accrued on the transaction.

OPINION.

The three questions submitted herein will be considered together:

1. Voting trust agreements are created pursuant to the provisions of section 25 of the General Corporation Law which

limits the period of such agreements to "a time not exceeding five years." The section makes no provision for an "extension" or "continuance." The "continuance" above referred to must therefore be construed to be the creation of a new voting trust agreement with new trustees even though the identity of the trustees remains the same. The legal title to the stock must be regarded as having been transferred from the old to the new trustees and a tax is payable. If there was a prior agreement on the part of the holders of the equitable title designating the new trustees to receive the legal title there would be no reversion of the legal title to the holders of the equitable title and there would be only one tax, namely, on the transfer from the original trust to the second.

Section 270 of the Tax Law provides that the tax shall be payable on "*agreements to sell*" or on transfers "whether made upon or shown by the books of * * * the corporation * * * or by any paper or agreement or memorandum or other evidence of sale or transfer, whether intermediate or final.

There can be no conception of a "continuance" without a transfer of the title to the stock.

2. Upon the original transfer of the stock in 1908 to the trustees of the first voting trust, no tax should be paid, the beneficial interest remaining in the transferrers. This was the rule prior to the amendment of the law in 1911. *U. S. Radiator Co. v. State*, 208 N. Y. 145.

Upon the transfer in 1913 from the trustees to the original holders, the tax should be paid. Upon the transfer immediately following, from the original holders to the trustees of the second trust, the tax should be paid.

The final transfer presents a somewhat different situation. Upon the termination of the second trust, the certificates did not pass back to the original holders or beneficiaries. They were transferred directly to the trustees of the third trust.

If there had been existent a specific agreement that at the termination of the second trust, the title to the stock should revert to the original owners or those who might have become possessed of the interest of such original owners, and such original owners had permitted the date of expiration of the trust to pass without taking any action relative to such title, the title would thereupon

have become vested in them, and the tax would have been payable on such transfer. An additional tax would then have been payable on the transfer of the third voting trustees even though the certificates were issued direct to the third voting trustees. Such, however, is not the case.

The original holders had the right individually or collectively, at any time during the existence of the second trust, to dispose of their right to the title to the stock held in trust, and to direct the transfer of title to their nominees. This right they exercised by the agreement or direction on the last day of the second trust period, naming the third voting trustees as their nominees to receive such title. The title was thereupon transferred to such third voting trustees. This constituted but one transaction and but one tax was payable. *Hudson and Manhattan R. R. Co. v. State*, 227 N. Y. 233. If there had been no such direction by the equitable owners before the expiration of the second trust for a transfer of the legal title from the second to the third trust, there would have been a reversion to the equitable owners and two taxes would have been payable.

3. I assume that a tax was paid upon the transfer of the stock of the other corporations to the Black & White Taxi Co. If not it should be.

For the reasons given in the other opinions recently rendered by the Attorney-General in similar cases, the issue of stock to the Voting Trustees was not subject to a tax. Cole did not become a shareholder of the Black & White Taxi Co. He furnished the consideration for the issue of stock and became possessed of the right to name the persons who should become shareholders. This was not a taxable transfer of stock.

I have assumed in this and also in the Bucyrus Tire & Rubber Co. and Frank L. McWade cases, in which I recently rendered opinions that the corporation has been no party to the creation of any trust and that the issue was made to the nominees without reservation. If the recipients agreed that Mr. Cole shall have any equitable interest in the stock, such agreement constituted a taxable transfer.

Dated June 30, 1920.

CHARLES D. NEWTON,

Attorney-General.

To HON. EUGENE M. TRAVIS, *State Comptroller.*

TAX LAW, SECTION 270—STOCK TRANSFERS—TO TRUSTEES OR PERSONS DESIGNATED—TRANSFERS TO TRUSTEES FOR RETIREMENT—TRADING OF ASSETS.

Where stock is originally issued to trustees the transfer is not taxable. Where one company agreed to trade its entire capital stock and assets in exchange for those of another, the transfers of the stockholders to the first company and the transfers of the first company to the second are both taxable. Where under an agreement with a corporation, stockholders may receive payment for their stock upon deposit of their stock with a trust company, such a transfer is taxable unless actually retired by the issuing company.

FACTS

I. One William G. Dargan, the owner of a business, offered to turn over such business to the Bucyrus Tire and Rubber Co., a newly organized corporation, in exchange for 2,000 shares of the stock of the corporation to be issued to him *or to his nominees*. At the first meeting of the incorporators and directors of the corporation the offer was accepted, and there was received an authorization and direction from Dargan to issue the stock to certain voting trustees named therein. A certificate of stock was so issued. Inquiry was made as to whether this transaction is subject to a tax.

2. The Frank L. McWade Company made an offer to the McWade Mdse. Corporation to turn over its entire capital stock and all of its assets in exchange for the entire capital stock of the latter. The former had apparently been placed in a position to make such offer by the transfer to it for such purpose of all of its capital stock of the holders thereof. The McWade Mdse. Corporation accepted the offer, the written acceptance setting forth that the stock of the Mdse. Corporation should be issued "as the Frank L. McWade Company may direct." The written offer of the Frank L. McWade Company contained a reservation as to the issuance of the stock to any nominees of Frank L. McWade Co. Pursuant to the direction given by Frank L. McWade Co., the McWade Mdse. Corporation thereupon issued part of its stock to certain individuals named and who were the original holders of the stock of the former. Twenty-five thousand shares were not formally issued but were donated by the Frank L. McWade Co. to the McWade Mdse. Corporation "for promotion purposes." Inquiry is made as to which of these transactions were taxable.

3. The American Smelters Securities Company, a New Jersey corporation with power under its certificate of incorporation

“to purchase any of its stock * * * for present or ultimate retirement, and to enter into any and all contracts with stockholders or others for the purchase of such stock for present or future delivery * * * such purchases to be made only out of the net surplus of the company after payment of the dividends on the preferred stock herein provided for.”

entered into a contract in the year 1912 with the United States Mortgage and Trust Co., the terms of which were substantially as follows: That the holders of preferred shares “A” might before February 1, 1914, become parties to the agreement by delivering to the trust company, called the depository, their certificates of stock to be stamped with a memorandum to the effect that such stock would thereafter be subject to purchase for retirement at par on any dividend date on or after July 1, 1930, and before said date by lot to the amount purchasable from certain annual cumulative payments to be made by the securities company to the depository. That the certificates of stock so stamped should be returned to the holders thereof. That the holders should be bound by all terms of the agreement. That the securities company should provide for the gradual retirement of the stamped stock by certain annual cumulative payments made to the depository out of surplus earnings over and above the amount necessary for dividends or the outstanding preferred stock, and which would otherwise be available for dividends upon the common stock. That such payments should in part consist of a sum equal to six per cent on the aggregate par amount of all stamped stock which should have been purchased “prior to the first day of July in each year on which date such payment is to be made.”

That the depository might from time to time determine by lot the stamped stock to be purchased by retirement, proportioned to the amount of payments made by the securities company and available for such purpose. That the holders of the certificates so determined should thereupon deliver the same to the depository, *duly indorsed in blank for transfer*, and receive the par value thereof.

That after being so called for purchase the certificates “whether held by the Depository or by others,” should “not be entitled

to any dividends or to any share in the assets of the Securities Company."

That the stamped stock so purchased should be held by the depository for the benefit of the owners of the stamped stock outstanding until the entire amount of stamped stock should have been purchased and that no new preferred stock, series A, should be issued by the securities company nor any other stock equal to it, or entitled to any preference, or priority over the same, should be issued in lieu of the stock so purchased. That the securities company might, however, from time to time, reduce its capital stock by an amount not exceeding the Class A stock held by the depository and the latter should thereupon "cancel and deliver to the securities company certificates for an amount equal to the amount of the reduction in capital stock.

That any money paid to the depository pursuant to the terms of the agreement might be treated by it as a "general deposit." That the depository should have no lien on the stamped stock held by it for compensation for services rendered. That any successory depository named, should on the naming of the same, become "vested with the title to the moneys, stock and records held hereunder."

Pursuant to the agreement, certain stock, amounting to 11,857 shares, has been received and paid for by the depository and is now held by it.

There has been no reduction of the capital stock of the securities company. Inquiry is made as to whether the transfer of stock to the depository is taxable.

OPINION.

The questions submitted will be considered in the order stated.

1. Mr. Dargan was at no time prior to the issue of the stock to his nominees in the position of a stockholder.

"A share of stock is the right to participate in stockholder's meetings and in the profits of the business and to require that the corporate property shall not be diverted from the original purpose."

Bouvier's Law Dictionary (Rawle's Edition).

U. S. Radiator Co. v. State, 208 N. Y. 144-149.

He was not an original subscriber for stock. He was only in the position of offering to pay for certain stock, provided certificates for the same were issued to persons whom he named. The persons named received the title to the stock and whether that title was subsequently divided into a legal and beneficial ownership was entirely a matter of agreement between the recipients of the certificates and Dargan. The latter, so far as the corporation was concerned, was simply the payee of the consideration. It was an original issue of stock and as such not subject to a tax.

2. If the stock of the Frank L. McWade Co. was actually transferred to the company by the stockholders and then transferred by the company to the McWade Mdse. Corp., both transfers were subject to the tax imposed under the provisions of section 270. That section embraces the transfer of the legal title to of beneficial interest in shares of stock "or possession for any purpose." The shares were apparently transferred to the company and then transferred by it to the new corporation. If the shares were transferred directly to the McWade Mdse. Corp. by the shareholders of the Frank L. McWade Co. only one tax would be payable.

The twenty-five thousand shares donated to the McWade Corporation must be regarded as issued to the Frank L. McWade Co. and transferred by it to the McWade Corporation. The transfer to the latter was subject to the tax.

The issue of the remainder of the stock to the former holders of the capital stock of the Frank L. McWade Co. does not appear to be taxable. The written offer of the latter reserved the right to designate the persons to receive the stock, the acceptance granted such right and it is a fair inference that such was the agreement between the parties. The Frank L. McWade Co. therefore, furnished the consideration for the issuance of the stock to third persons and did not itself become a stockholder. Such a transaction does not involve a taxable transfer.

3. Section 270 of the Tax Law imposes a tax

"on all sales or agreements to sell, or memoranda of sales of stock and upon any and all deliveries or transfers of shares or certificates of stock * * * whether made upon or shown by the books of the corporation or by any assignment in blank, or by any delivery or by any paper agreement or

memorandum or other evidence of sale or transfer, whether intermediate or final and whether investing the holder with the beneficial interest * * * or merely with the possession or use thereof for any purpose." * * *

The parties to the agreement undoubtedly contemplated the ultimate retirement of the Class A stock and intended that the transfer to the depository should be but one step in the process of retirement. They have, however, adopted a method which appears to subject the proceeding to the imposition of the stock transfer tax.

Under the terms of the agreement, upon the transfer of the stock to the depository, that stock became divested of certain incidents of stock ownership. It is not, however, obliterated. It is still part of the capital stock of the corporation.

The depository as the holder thereof has certain rights as against the corporation. Occasion may arise for the exercise of those rights if the property of the corporation shall at any time be wasted or if any new stock shall be issued by the corporation in violation of the terms of the agreement. The holders of other classes of stock who are not parties to the agreement may adopt measures for its nullification.

Until the capital stock of the corporation shall be reduced the stock held by the depository remains outstanding. Payment for the stock is made from earnings and not from capital. *The parties to this agreement* cannot reduce the amount of capital stock. Such reduction can only be made pursuant to the provisions of the Stock Corporation Law. See sections 22, 62, 63 and 64. Until such reduction shall be accomplished, the stock so held cannot be retired.

It can at any time be vitalized and recalled to normal status by modification of the existing agreement, or by a new agreement and by acquiescence of the stockholders.

In any event, section 270 imposes a tax literally upon the transfer of any *certificate* of stock whether investing the holder with beneficial interest or legal title.

Bonbright v. State, 165 A. D. 640.

By the delivery to it of the certificates "endorsed in blank for transfer" and by the terms of the agreement itself, the depository became possessed of the legal title to the stock.

The corporation having created an intermediary made acquiescent to its purposes by contractual obligations, to receive or purchase and hold its stock, has brought itself voluntarily within the scope of the provisions of the Tax Law. In my opinion the transfer is subject to the tax.

Dated, June 30, 1920.

CHARLES D. NEWTON,
Attorney-General.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Woolworth Building, New York City.*

GENERAL HIGHWAY TRAFFIC LAW — PASSING STREET SURFACE CARS.

Although a vehicle must turn for the distance prescribed by the statute, when approaching the rear of a street surface car which has been stopped for passengers, it need not likewise turn, when it proceeds toward the head of a street surface car stopped for the same purpose.

INQUIRY.

The Department of Public Safety of the City of Albany submits an inquiry as to the construction to be given the word "meeting" emphasized in the following provisions of section 11, subdivision 6 of The General Highway Traffic Law:

"A vehicle in overtaking or *meeting* a street surface car which has been stopped for the purpose of receiving or discharging a passenger or passengers, shall not pass or approach within seven feet of such car so long as such car is receiving or discharging passengers, except that in a city having a million or more population such vehicle shall not pass or approach within eight feet of such car except as indicated by a safety zone. In passing any street surface car extreme care must be used by the driver."

OPINION.

We have to determine whether or not a vehicle proceeding toward the head of a surface car must turn the statutory distance as well as when overtaking the rear of a surface car. It seems the Legislature could have avoided all doubt by simply providing that a vehicle shall turn the required distance when "passing"

a surface car stopped for passengers. It has, however, used the word "overtake," which seems to be perfectly understood with the word "meeting" which only in a secondary sense, according to the Century Dictionary, is an antonym for "overtake." The phrase "to meet" does not necessarily include to come even with or to pass. Witness the definition of Euclid that parallel lines are straight lines that extended in the same plane will never meet. On the other hand, one may overtake another directly in the rear or even preliminary to passing. Yet, one may pass another on the street without meeting.

Although we should not diminish the force of a regulatory statute by a strict construction, neither should we ignore the modifying influence of the rule of construction applicable to penal statutes. We should read the word "meeting" in its primary sense of "encounter; come into the presence of, or the same place with; come face to face," unless we cannot give any force or effect to such an application or by such interpretation destroy the effect of the instrument upon an evil within the concept of the whole statute.

Meaning can be given to the word "meeting," if we take the statute to require a turning in where a vehicle meets, rather than overtakes, a surface car at street intersections, or even where the two meet at less than right angles on the side of the surface car, discharging or receiving passengers.

Does the statute by its context require any further extension of the meaning of the term? I think not. Surface cars proceeding in a direction opposite to one standing are not required by the statute to stop. It cannot be said that there is ordinarily such great and imminent danger to passengers passing around the head or rear of the surface car they have left, that vehicles coming towards the head of the surface car should likewise swing towards the other curb to avoid accidents. Ordinary caution and the prudence to be observed in the usual conduct of life require passengers to wait until their car has passed on and a clear way to cross the street may be seen. On the contrary, to require the vehicle proceeding towards the head of the standing car to make a turn of from seven to eight feet would only confuse traffic. Slow moving vehicles are required to keep near the right hand curb and the vehicle having the middle line of the highway has the

right of way. (General Highway Traffic Law, section 12, subdivision 6.) Only when car tracks are both laid together at the same side of a street, instead of in the middle or on opposite sides, are the conditions of traffic such as to supply compelling reasons for departure from this view. The statute, however, was enacted to meet the common dangers of street traffic conditions arising upon a deviation from the normal in track lay outs may be provided for under the ordinance powers granted in section 22. Under the statute itself extreme care must be exercised in *passing* any street surface car.

It is, therefore my opinion that a vehicle proceeding towards the head of a surface car standing for passengers is not required to turn.

Dated, July 6, 1920.

CHARLES D. NEWTON,
Attorney-General.

TO HON. NICHOLAS J. BARRY, JR., *Deputy Commissioner, Dept.
of Public Safety, Albany, N. Y.*

GENERAL BUSINESS LAW — ARTICLE 4-A — LAWS OF 1920 — CHAPTER 775
— ENGINEERS AND SURVEYORS — ELIGIBILITY OF MEMBERS TO SUCH BOARD
OF LICENSING FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS.

The law providing for a State board of licensing for professional engineers and surveyors requires that each member of the board shall be a licensed professional engineer. Under the statute, the State Board of Regents should license the members of the first board appointed in order that the members may fulfill this qualification.

INQUIRY.

The law passed at the last session of the Legislature provides for licensing persons practicing or offering to practice professional engineering or land surveying in this State. There is created a State board of licensing for professional engineers and land surveyors, who shall be appointed by the Regents of the University of the State of New York within sixty days after the act took effect on May 14, 1920. Among the qualifications required of members of the board is that they shall be licensed engineers. Can the law be made operative, in view of the fact that there has not heretofore been in existence authority empowered to license the members of the first board appointed?

OPINION

Article 4-a was added to the General Business Law by chapter 775 of the Laws of 1920. It took effect, by approval of the Governor, on May 14, 1920. Under section 38 of the statute, the Regents of the University of the State of New York are required to appoint a State Board for Licensing Professional Engineers and Land Surveyors, consisting of five members, within sixty days after the Act took effect. The statute provides under section 39.

“Section 39. Qualifications and Expenses. Each member of the board shall be a citizen of the United States and a resident of this State at the time of his appointment. He shall have been engaged in the practice of his profession for at least ten years and shall have been in responsible charge of work for at least five years. *He shall be a licensed professional engineer.* Each member of the board shall receive a compensation determined by the Regents for attending sessions of the board or of its committees, and for the time spent in necessary travel, and, in addition, shall be reimbursed for all necessary traveling, incidental and clerical expenses incurred in carrying out the provisions of this act.”

Under section 38 it is provided, that a board “is hereby created,” and then goes on to direct that the Regents shall appoint a board.

A similar situation was discussed in *People ex rel. Van Deren v. Moors*, 78 App. Div. 28. There the court had to consider the provisions of the General City Law in relation to plumbing. The statute provided that of the members of the examining board in cities two should be employing or master plumbers of not less than ten years experience in the business of plumbing. The statute in that case likewise prohibited the practice of plumbing without a license from a board of examiners, and provided a penalty for doing business without a license. The mayor of the city of Geneva refused to appoint a board, upon the ground that there were not to be found in the city of Geneva two employing or master plumbers of not less than ten years experience. The proceeding was to compel the appointment of a board by a peremptory writ of mandamus. The court held that the lack of persons having the statutory qualifications for appointment was

a good defense, which might be raised by the Mayor upon an alternative writ of mandamus.

The situation presented here is different for two reasons: First, It is a cardinal rule of statutory construction that the Legislature will not be charged with having done a useless thing. Article 4-A of the General Business Law is a carefully drafted statute of some sixteen sections. Every question should be resolved in favor of the validity of the Legislature's act and we should strive to give it full force and effect, rather than to deny it any operation whatever. In the Van Daren case, the statute was operative in many cities. The peculiar situation in Geneva did not destroy it altogether. In the instant case, the legislation must fail, if we find that it is so drafted as to prevent any possibility of the appointment of a board. This leads to absurdity which the law abhors. Second, The statute in this case contains a provision under section 39-A intended to cover precisely the situation we now face. I am informed that the Governor, in his consideration of the bill interpreted the provision, which I will now quote as sufficient to give life to the statute. Section 39-A in part provides:

“Section 39-A. *Powers of the Board.* Each member of the board shall receive a certificate of appointment from the regents, and before beginning his term of office he shall file with the secretary of state the constitutional oath of office. *Each member of the board first created shall receive a certificate of license under this act, from the regents of this state * * *.*”

The only possible argument I see against the effectiveness of this provision is that the statute seems to provide by inverse order for the steps to be taken in establishing the first board. The statute, in section 38, first “creates” a board and then provides for the appointment of a board by the Regents, for certificates of appointment from the Regents and for the issuance of certificates of license to the members. Although, admitting that some confusion exists here in the order of the proceeding, nevertheless, for the reasons I have given, I am of the opinion that this should not invalidate the law. Although, the board is first created by the statute, it is the membership and qualifications of the members

which we have to deal with now. The board was theoretically existing at the time the Governor approved the bill. Its membership, however, will not come into existence until the board makes the appointments, issues certificates, and licenses the members as engineers and surveyors. The latter acts of issuing the certificates of appointment and licensing the persons so certified may be provided contemporaneously, so that the members appointed became members of the board and licensed engineers and surveyors at one and the same time.

I am, therefore, of the opinion, that the Board of Regents of the State of New York, should proceed to appoint, certify and license five persons as members of the State Board of Licensing for Professional Engineers and Land Surveyors on or before July 14, 1920.

It has been stated that the Regents will be unable, within the sixty days allowed by law to select the members of the licensing board, and that there will not be another regular meeting of the Regents until next October. The statute does not require the impossible. If competent men may not be selected within the time mentioned in the statute, the provision for sixty days may be regarded as advisory rather than as mandatory. The appointments should not, however, wait upon the convenience of a stated meeting.

Dated July 7, 1920.

CHARLES D. NEWTON,
Attorney-General.

To HON. AUGUSTUS S. DOWNING, *Assistant Commissioner, and
Director of Professional Education, Education Building,
Albany, N. Y.*

MILITARY LAW, SECTION 27, PARAGRAPH 5. PENAL LAW, SECTION 29. EMPLOYMENT OF BOYS SUBJECT TO MILITARY TRAINING, WHO DO NOT HOLD CERTIFICATES, A MISDEMEANOR.

The violation of the provisions of subdivision 5 of section 27 of the Military Law as amended by Laws 1918, chapter 470, is a misdemeanor under the provisions of section 29 of the Penal Law.

INQUIRY

What are the proper steps to be taken by the Military Training Commission for the enforcement of the Military Training Law (Military Law, Article 1-a), particularly subdivision 5 of section 27, which provides:

"A boy above the age of sixteen years and not over the age of nineteen years who does not possess a certificate issued as herein provided, showing that he is enrolled for military training and is meeting the requirements of the military training commission as to such military training, shall not be employed or continued in employment by any person, firm or corporation within this state, or by any officer, manager, superintendent or other employee acting in behalf thereof, unless such boy has been exempted by the commission under its rules and regulations. (As amended by L. 1918, ch. 470.)"

OPINION

The subdivision of section 27 of the Military Law quoted above specifically prohibits the employment or continuing in employment by any person, firm or corporation, etc., of a boy subject to military training, who does not hold a certificate. While the Military Law does not contain any provision for punishment of the violation of this section, section 29 of the Penal Law provides:

"Where the performance of any act is prohibited by a statute, and no penalty for the violation of such statute is imposed in any statute, the doing of such act is a misdemeanor."

It is perfectly clear that under these two statutes read together, the employment of a boy above the age of sixteen and not over nineteen, who does not possess a certificate and who has not been exempted from military training, constitutes a misdemeanor on the part of the person, firm or corporation, and of the officer, manager, superintendent or other employee acting in behalf thereof, who employs such boy.

The prosecution of violators of these sections is a matter for the local authorities of the place in which the crime is committed. The proper procedure for the Military Training Commission, on discovering the commission of any such crime, is to have somebody acquainted with the facts go before a police magistrate or a justice of the peace and swear out a warrant for the arrest of

the guilty party. On the return of the warrant the complaining witness should appear before the magistrate for the purpose of giving testimony.

Dated, September 8, 1920.

CHARLES D. NEWTON,
Attorney-General.

TO MILITARY TRAINING COMMISSION, *Albany, N. Y.*

PENAL LAW, SECTION 1897 — POSSESSION OF PISTOLS BY U. S. RESERVE OFFICERS.

The provisions of section 1897 of the Penal Law do not prevent or render criminal the possession by U. S. Reserve Officers of pistols which they are, by army regulations, required to possess.

INQUIRY

The fourth paragraph of section 1897 of the Penal Law of the State of New York provides:

“Any person over the age of sixteen years, who shall have in his possession in any city, village or town of this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, without a written license therefor, issued to him as hereinafter prescribed, shall be guilty of a misdemeanor and if he has been previously convicted of any crime he shall be guilty of a felony.”

Does this apply to the possession by Reserve Officers of the United States Army of pistols which constitute a part of their military equipment?

OPINION

Under the Federal Constitution the United States is empowered to maintain armies. Congress, in the National Defense Act, has provided that the army shall include the regular army, the national guard and the organized reserves. The officers' reserve corps is a part of the last mentioned branch. (Nat'l Def. Act, June 4, 1920, § 37). The army regulations, by which the conduct of members of the army is governed, include Special Regulation No. 43 (officers' reserve corps), paragraph 8 of which provides:

"8. Uniform and equipment. Reserve officers will provide themselves with the field uniforms and personal and horse equipments pertaining to their grade, as prescribed in uniform regulations. They may provide themselves with such other uniforms as are prescribed in uniform regulations for officers of the Regular Army of corresponding grade. They may wear the appropriate uniform whenever under similar circumstances such uniform is customarily worn by officers of the Regular Army, and not otherwise."

The equipment required by this regulation is described in the uniform regulations — Special Regulations No. 41 — which includes (paragraph 106):

"106. Pistol. The pistol will be worn when equipped for field service by veterinarians and all officers, except chaplains and officers of the Medical Department. (See notes 2 and 3, paragraph 129-a, p. 53.) The pistol will be worn on the right hip. The pistol belt will be worn outside the coat or overcoat."

In short, members of the officers' reserve corps are required by regulations to be equipped with pistols.

The State of New York has no right to interfere with the maintenance of the United States Army. This is so well settled that it is unnecessary to cite authorities. Where a function is delegated to the United States by the Constitution, the State cannot directly or indirectly prevent or hinder the performance of that function. I am, therefore, of the opinion that the prohibition in the Penal Law against the possession of pistols cannot be applied to officers of the United States Army who are required by regulation to possess them. If the officers are not excepted in the application of the section, the section would be unconstitutional as interfering with the powers of the United States, for an officer cannot be held guilty of a crime under our State law for doing something which he is constitutionally required to do by the laws of the United States.

Dated, September 16, 1920. CHARLES D. NEWTON,

Attorney-General.

TO HON. NEWTON D. BAKER, *Secretary of War, Washington,*
D. C.

CITY SCHOOL LAW, ARTICLE 33-A OF THE EDUCATION LAW. CHARTER OF THE CITY OF AMSTERDAM.

The board of education of the city of Amsterdam has authority to borrow money upon certificates of indebtedness, temporarily, in anticipation of taxes which have been levied for school purposes within such city during the current fiscal year. No authority is vested in the common council of such city to borrow money in anticipation of the school taxes, or to issue certificates of indebtedness of the city for money so borrowed for school purposes.

INQUIRY

Has the board of education of the city of Amsterdam authority to borrow money in anticipation of school taxes which have been levied during the current fiscal year for school purposes?

Has the common council of such city authority to do so?

OPINION

An amicable difference of opinion has arisen between the Commissioner of Education and the Comptroller in regard to the right of the board of education in the city of Amsterdam to borrow money in anticipation of the levy of taxes for school purposes for the present year.

It is provided by subdivision 8 of section 877, article 33-a of the Education Law as follows:

"A board of education may, to meet emergencies which may arise, submit a special estimate in which items for extraordinary expenses may be submitted to meet such emergencies. Such estimate shall contain a complete statement of the purposes for which the items are requested and the necessity therefor. The same method of procedure shall be followed in submitting such estimate and such estimate shall be subject to the same consideration and action as is required in the submission, consideration and action upon the regular annual estimate submitted by a board of education. The common council in such a city shall have power to make the appropriations requested by a board of education in such special estimate. The common council, in a city of the third class, the common council, the board of estimate and apportionment of a city of the second class, and, in a city having a population of four hundred thousand or more and less than one million, according to the federal census of nineteen hundred and ten, the council may temporarily borrow the amount

appropriated on city certificates of indebtedness or by the issuance of revenue bonds or other municipal bonds, which certificates of indebtedness or bonds shall be payable at such time and in such manner as shall be provided by general laws or the charter of such city for other certificates of indebtedness or revenue bonds."

Here is direct authority conferred upon the Common Council of a city of the third class, as well as many other cities, to borrow temporarily any amount appropriated to meet emergencies as provided in and by such subsection, but this authority only applies to amounts appropriated to meet emergencies, and does not apply to money appropriated for other general or special educational purposes, so if authority is given to the Common Council of a city of the third class to borrow temporarily upon certificates of indebtedness in anticipation of taxes levied for general or special school purposes, it must be found in some other provision.

Aside from the authority conferred upon the Common Council of cities to borrow money temporarily for school purposes on certificates of indebtedness of the city in cases of emergencies, there is no direct authority contained in Article 33-a of the Education Law, for either the Common Council or boards of education to borrow on certificates of indebtedness any sum for temporary use in anticipation of taxes.

Title X, which covers sections 116 to 129, inclusive, of chapter 242 of the Laws of 1911 (charter of the city of Amsterdam) was repealed by chapter 786 of the Laws of 1917 (the City School Law), and the provisions of the city charter so far as they relate to the government of schools and powers of the board of education in the city of Amsterdam have no further force, but the schools, board of education and common council of such city are subject to the provisions of City School Law.

It is claimed on the part of the Comptroller that section 112 of the Amsterdam city charter is still in force. The section reads as follows:

"The common council shall have power after the commencement of any fiscal year to borrow on the credit of the city, in anticipation of its revenues for that year, such

amounts as may be necessary to meet expenditures actually incurred at the time of so borrowing, under the appropriations for such fiscal year, not exceeding, however, one-half of the amount of the annual city tax levy, after deducting therefrom the amount appropriated for the board of education, the amount appropriated for the payment of the sum remaining unpaid on any judgments against the city's share of paving and grading, and after also deducting the amount of revenues received by the city in said fiscal year up to the time of so borrowing. All sums so borrowed shall be repaid from the annual tax for such fiscal year when the same shall have been collected."

It cannot be possible that the Legislature intended to give the Common Council power to borrow temporarily for school purposes and yet exclude from the amount which it could borrow all sums appropriated for such purpose, and limit the amount to one-half of the annual city tax levy, after deducting all sums appropriated for school purposes. The phraseology of the section clearly indicates that it was the intention to withhold from the Common Council the authority to borrow in anticipation of the school taxes. It seems more reasonable to conclude that the Legislature regarded the provisions of the Education Law as sufficient to meet the situation in reference to the school moneys, and therefore directed that all sums appropriated for the board of education should be deducted from the amount which could be so temporarily borrowed by the Common Council.

It is the scheme of Article 33-a of the Education Law that the boards of education in the various cities shall have exclusive control of the school moneys raised or appropriated for school purposes. They are charged with the duty of making up the estimates for all school expenditures for the ensuing year and submitting the same to the board of common council, mayor, or board of estimate and apportionment, for levy and collection. The money so collected is turned over to the city treasurer and kept by him as a separate fund, subject to being checked out upon orders of the board of education only, but the duty of levying and raising the amounts so estimated is charged upon the common council, and aside from the authority conferred upon

boards of common council to borrow temporarily to meet emergencies, as provided by subdivision 8 of section 877 of the City School Law, I am unable to find that any authority is vested in such council to borrow any sum of money for school purposes.

I am referred to sections 108 and 109 of the charter of the city of Amsterdam, but they relate to the procedure for the making up of the estimates for the annual tax levy and the appropriation levy and collection of the annual taxes. These sections are followed by section 112 (heretofore discussed), which confers upon the common council the power to borrow in anticipation of the revenues of the fiscal year, and unless authority by the common council to borrow temporarily for school purposes can be read into section 112, there is no provision of law permitting the board of common council of the city of Amsterdam to borrow money temporarily in anticipation of the payment of school taxes.

It is provided in section 865 of the Article 33-a, section 1, that :

“A board of education is hereby established in each city of the state * * *.”

By section 868, subdivision 1, that the board of education in the several cities shall have power:

“To perform any duty imposed upon boards of education or trustees of common schools under this chapter or other statutes, or the regulations of the University of the State of New York or the commissioner of education so far as they may be applicable to the school or other educational affairs of a city, and not inconsistent with the provisions of this article.”

By section 300 of the Education Law, that:

“The board of education of each union free school district or city is hereby created a body corporate * * *.”

It is also provided by subdivision 19 of section 310 of Article XI of the Education Law, relating to boards of education, that such boards of education have power:

“To borrow money in anticipation of taxes remaining uncollected which have been levied by such district for the

current fiscal year, and not in excess thereof, whenever in the discretion of the board of education it shall be necessary to do so for the purpose of paying the current expenses of the district for such current fiscal year, by issuing certificates of indebtedness, in the name of the board of education, signed by the president and clerk thereof, which certificates must be payable within such current fiscal year or within nine months thereafter, and shall bear interest at a rate not exceeding six per centum per annum."

The foregoing subsection, coupled with the provisions of the City School Law hereinbefore referred to, confers ample authority upon the board of education of the city of Amsterdam to borrow money temporarily in anticipation of taxes, and if such authority in the common council to so borrow temporarily for school purposes can be spelled out of section 112 of the city charter, it must be deemed to be repealed by section 3 of Article 33-a, which reads in part as follows:

"All acts or parts of acts, general or special, inconsistent with the provisions of this act are hereby repealed." * * *

Neither the common council of a city or a board of education has the power to borrow money unless expressly authorized to do so by some statute (*Wells v. Town of Salina*, 119 N. Y. 280), and inasmuch as the authority to borrow temporarily seems to be clearly given to the board of education of the city of Amsterdam, and only doubtful authority can be implied in the common council of such city by giving section 112 of the city charter a strained and unwarranted construction, I am of the opinion that the board of education of said city only is authorized and empowered to borrow temporarily upon certificates of indebtedness in the name of the board of education for the current expenses of the district in anticipation of the taxes which have been levied for school purposes during the current year.

Dated, September, 1920.

CHARLES D. NEWTON,
Attorney-General.

To Hon. JOHN H. FINLEY, *Commissioner of Education*, and Hon.
EUGENE M. TRAVIS, *Comptroller.*

ABSENTEE VOTING — SECTION 1-A, ARTICLE II, CONSTITUTION, ARTICLE 15-A, ELECTION LAW, BEING CHAPTER 875, LAWS OF 1920.

An absentee voter is a qualified voter who is unavoidably absent from his county and elsewhere within the United States by reason of his duties, occupation or business.

Unless such absentee voter is performing duties or engaged in occupation or business which of its nature would ordinarily require absence from the State or county or traveling beyond the boundaries of his State or county, he must, in his application for the ballot, make a statement of the special circumstances requiring his absence.

The application for an absentee voter's ballot must be received by the board of elections not later than the seventeenth day before election day.

Before making application for an absentee voter's ballot, it is necessary that in cities and villages of over five thousand inhabitants, he must register personally and in other localities, he must know that his name has been placed upon the register.

To effectuate the vote of an absentee voter the ballot must be returned to and actually received by the board of elections of the county in which the voter resides not later than twelve o'clock noon on the Friday preceding election day.

If a voter, after having mailed his absentee voter's ballot to the board of elections, ascertains that he will be within the boundary of his county on the day of election, he must immediately notify the inspectors of elections of his election district of the fact of his presence in the county.

Any person violating the provisions of the Absentee Voter's Act shall be guilty of a felony and upon conviction shall be punishable by imprisonment for not less than one nor more than five years.

STATEMENT.

The Honorable Francis M. Hugo, Secretary of State, has requested that an opinion be rendered him construing the various provisions of the Absentee Voter's Act, being chapter 875 of the Laws of 1920, which amends the Election Law by inserting therein a new article known as article 15-a, which contains sections 523 to 539, both inclusive, of the Election Law.

OPINION

At the general election held in 1919, the people of this State adopted an amendment to the Constitution known as section 1-a of article 2, which reads as follows:

"The Legislature may, by general law, provide a manner in which, and the time and place at which, qualified voters who may, on the occurrence of any general election, be unavoidably absent from the state or county of their residence because their duties, occupation or business require them to be elsewhere within the United States, may vote, and for the return and canvas of their votes in the election district in which they respectively reside."

Pursuant to the above-quoted mandate of the Constitution the Legislature of 1920, by chapter 875, enacted what is known as article 15-a of the Election Law, containing sections 523 to 539, both inclusive, to provide for absentee voting.

This act permits a qualified voter, who may be unavoidably absent from his county, but elsewhere within the United States, by reason of his duties, occupation or business, to vote through the medium of what is known as the absentee voter's ballot. This ballot is only available to such voters as are, on or before the sixteenth day of October, cognizant of the fact that they will be absent from the election district and county of their residence on election day, by reason of their duties, occupation or business, and they must also be unavoidably absent, that is, absent by reason of peculiar circumstances to the extent that it would not be construed that they could reasonably and without undue trouble return to their election districts for the purpose of voting. For the purpose of making this test of a person's right to an absentee voter's ballot, by section 524 of the act, it is provided that such person shall mail or deliver to the board of elections of the county or city in which he resides his affidavit, setting forth his name and residence address, which shall include the name of the county and of the city, town, or village, and the street or avenue and the number, if any, or a brief description of the locality, if his residence cannot be described by street or avenue and number. He must further swear that he is a qualified voter of the election district in which he represents himself to reside. He must further state therein that he expects to be unavoidably absent from the State or county of his residence on election day, because his duties, occupation or business require him to be elsewhere within the United States. In case he is engaged in the pursuance of duties, occupation or business, which of their very nature would ordinarily require absence from the county or ordinarily require traveling beyond the boundaries of the county, he merely sets forth in such affidavit a brief description of his business, occupation or duties, which require such absence. Among this class of voters the statute specifically mentions employees in the operation of railroad trains, commercial travelers, actors and Federal employees.

If the voter is one, the nature of whose business would not ordinarily require absence from the county, he must then set forth in his affidavit a statement of the special circumstances by which such absence is required.

Divers inquiries have been made to me whether or not certain classes of voters would come within the provisions of the Absentee Voter's Law, and among such inquiries I find school teachers, instructors, students, persons confined or residing in charitable institutions, members of the Old Soldiers' Home at Bath, N. Y., members of the Firemen's Home at Hudson, N. Y., and patients who may be confined in institutions for surgical or medical treatment.

Those hereinabove enumerated, whose duties, occupation or business ordinarily require absence from the county of their residence would be entitled to the absentee voter's ballot under the same requirements exacted from actors, commercial travelers, etc.; but as to those whose absence is not of an ordinary nature, I submit the test hereinbefore set forth, that it must be absence by reason of peculiar circumstances to the extent that it would not be construed that they could reasonably and without undue trouble return to their election districts for the purpose of voting. For instance, a patient confined in an institution for surgical or medical treatment would come within this class.

Section 525 of the act directs that in order to avail oneself of the privilege of voting an absentee voter's ballot, he must file an application for such ballot with the board of elections of his county not later than the seventeenth day before the general election. This fixes the time for the last day of filing such application this year on Saturday, October sixteenth. Any application filed with such board of elections subsequent to the sixteenth day of October cannot be considered by the board and no ballot will issue to the applicant thereon.

The board of elections, in order to determine whether or not the applicant is entitled to a ballot, must examine the register of the election district in which such applicant resides, for the purpose of ascertaining whether or not such applicant is duly registered as stated in his affidavit.

Said section 525 also confers upon boards of elections the

authority to determine whether or not the application is sufficient to permit the issuance of a ballot thereon, except in the case of the occupations specifically enumerated in section 524, namely, "employee in the operation of railroad trains, when the railroad or the run of such employee crosses the boundary of the county, commercial traveler, actor, and federal employee having an office or position outside of the county."

The words of the statute respecting this authority vested in the boards of elections are as follows:

"The board shall also determine whether the duties, occupation or business of the applicant, as set forth in his affidavit, are of a nature to ordinarily require traveling beyond the boundaries of the state or county, and shall determine, if they are found to be not of such a nature, whether the special circumstances, as set forth in the affidavit, are sufficient."

If the application is found to be sufficient, then, pursuant to said section 525, the board of elections will deliver to such applicant in person, or, if he shall have so requested, to a member of his family, or, if requested, mail such ballot, envelope and list accompanying same to the applicant at any address in the United States designated by him. Upon the receipt of such ballot the voter may at any time thereafter, at any place within or without the State, but within the United States, mark his official ballot, pursuant to the instructions accompanying such ballot, enclosing it in the proper envelopes, and subscribing the oath attached to the inner envelope, and shall then mail or deliver to the board of elections of the county or city of his residence such ballot, which must be actually received by such board of elections not later than twelve o'clock noon on the Friday preceding the day of election.

Section 535 of the act provides that if the voter has voted and mailed or delivered his ballot to the board of elections and subsequently ascertains that he will be on the day of election within the boundaries of the county of his residence, at any time between the opening and closing of the polls, he shall immediately notify or make diligent effort to notify the inspectors of election of his

election district, the fact of his presence in the county, or present himself at the polls for the purpose of voting and request the withdrawal of his absentee voter's ballot. This notification of his presence in the county on election day between the time of the opening and the closing of the polls is of the utmost importance to the voter for the reason that a failure on his part so to do subjects him to the prosecution for a felony where upon conviction he would be punishable by imprisonment for not less than one nor more than five years, as provided under section 538 of the act.

In construing this statute I have confined myself to such portions thereof relating particularly to the voter so that this may be a guide to those who are under the necessity of resorting to this method of voting in order to exercise their rights of suffrage.

Dated, September 24, 1920.

CHARLES D. NEWTON,
Attorney-General.

To HONORABLE FRANCIS M. HUGO, *Secretary of State.*

CODE OF CIVIL PROCEDURE, SECTION 3317 — FEES OF PRINTERS.

Under section 3317 of the Code of Civil Procedure (as amended by Laws of 1920, chapter 487), where the fees for publishing legal notices, etc. are fixed on the basis of inches of agate type, the fees for fractions of an inch should be computed at the same rate per inch, and fractions of an inch should not be treated as whole inches.

INQUIRY

Section 3317 of the Code of Civil procedure, as amended by chapter 487 of the Laws of 1920, provides in part:

“Except as otherwise specially prescribed by law, the proprietor of a newspaper is entitled, for publishing * * * advertisement, required by law to be published, * * * for each inch of agate, twenty-nine ems to the line, to seventy-five cents for the first insertion, and fifty cents for each subsequent insertion. In counties containing wholly or partially cities of the second class, the proprietor of a newspaper is entitled for publishing such * * * advertisements aforesaid, * * * for each inch of agate twenty-nine ems to the line, to one dollar and twenty-five cents for

the first insertion, and one dollar for each subsequent insertion; and in all cities of the first class to twenty cents per agate line of twenty-nine ems for each insertion * * *."

How should the fees be computed in case of such advertisements requiring less than one inch of space, and in case of advertisements where after a number of full inches there is a fraction of an inch?

OPINION

Had the Legislature intended the fee for a fraction of an inch to be the same as the fee for a full inch, I have no doubt it would have said so. The phrase "or fraction thereof" has become one of the commonest phrases in our legislation. The failure to use that phrase in this statute satisfies me that it was not the intent of the Legislature to have fractions count the same as full inches.

There is a further indication of the legislative intent in that when provision is made for the fees in cities of the first class — at the highest rate — they are fixed by the line. In view of the fact that an inch of space in a county not containing a city of the first or second class is worth seventy-five cents for the first insertion and fifty cents for a subsequent insertion, while an inch of space in a city of the first class is worth approximately two dollars and fifty cents, it would be absurd to say that a three line notice should cost seventy-five cents for the first insertion in a county paper and only sixty cents in a paper in a first class city.

I am satisfied that it was the intention of the Legislature that the fees should be computed *at the rate of* the fixed amount per inch, and not at the stated amount for each inch or fraction.

What is true of a separate fraction of an inch holds true of a fraction additional to one or more full inches.

Dated, September 29, 1920.

CHARLES D. NEWTON,
Attorney-General.

TO ROBERT B. WATERS, *Business Manager, The Journal Company, Albany, N. Y.*

GENERAL MUNICIPAL LAW — ARTICLE 7-A — BOARDS OF CHILD WELFARE — AMENDMENTS OF 1920.

An allowance by a board of Child Welfare must be made by a majority of a quorum present at a regular or special meeting.

The amendment to section 153, subdivision 1 of the statute in which the word "or" was substituted inadvertently and clearly as a typographical error for the word "and" in the sentence "whose husband was a resident of the State for a period of two years immediately preceding his decease or commitment or whose child or children were born in the United States" is to be disregarded, and the word "and" which appeared in the original law is to be read into the sentence instead.

Although a convict sentenced for a maximum of five years may, under the prison system of compensation, commutation or parole, be confined for a much shorter period, his family may, nevertheless, be allowed funds in the discretion of the boards.

QUESTIONS

The State Board of Charities submits three inquiries as to the effect of the statutory amendments of 1920, relative to Boards of Child Welfare. These questions are set forth in the following opinion in the order submitted.

OPINION

1. Section 153 sub. 2 of the statute was amended by Laws 1920, chapter 759, the changes appearing graphically in the following quotation from the Assembly bill.

"2. Such allowance shall be made by a majority vote of the *members of the board present at any regular or special meeting*, duly entered upon the minutes of (any regular or special) *such* meeting, and may be increased, diminished or totally withdrawn in the discretion of the local board of child welfare."

If this amendment was intended to permit an allowance by less than a majority of a quorum, as has been suggested, the purpose was not accomplished. It seems that previous to the amendment an allowance could be made by only the votes of a majority of the whole number of a board. In the case of a board of nine this was five votes, and in the case of a board of seven this was four votes. Now an allowance may be made by a majority vote of the number present at a meeting. Yet, in order to have a meeting there must be a quorum. A quorum is required and defined by section 41 of the General Construction Law as follows:—

“Section 41. *Quorum and Majority.* Whenever three or more public officers are given any power or authority, or three or more persons are charged with any public duty to be performed or exercised by them jointly or as a board or similar body, a majority of all such persons or officers at a meeting duly held at a time fixed by law, or by any by-law duly adopted by such board or body, or at any duly adjourned meeting of such meeting, or at any meeting duly held upon reasonable notice to all of them, may perform and exercise such power, authority, or duty, and if one or more of such persons or officers shall have died or have become mentally incapable of acting, or shall refuse or neglect to attend any such meeting, a majority of the whole number of such persons or officers shall be a quorum of such board or body, and a majority of a quorum, if not less than a majority of the whole number of such persons or officers may perform and exercise any such power, authority or duty.”

It, therefore, follows that six of a board of ten, now provided for cities, and four of a board of seven, provided for counties, constitute a quorum at a regular or special meeting for the transaction of business. The amendment does have the effect of permitting a majority of a quorum, even though such a majority be less than a majority of a whole membership, to grant an allowance. It is, therefore, my opinion that in a board of seven attended by at least four members, three votes are necessary and in a board of ten attended by at least six, four votes are necessary to authorize an allowance or the transaction of other official business. A contrary determination would permit the expenditure of public funds without the safeguards ordinarily required.

2. Section 153, subdivision 1, of the statute was amended by Law 1920, chapter 700. After making various changes in which new matter was indicated by italics and omitted matter was indicated by brackets, as is the practice of the Legislature, the bill goes on to provide for eligibility for allowances in part as follows:

“Provided *further* such widow or mother, has been a resident of the county or of the city wherein the application for

an allowance is made for a period of two years immediately preceding the application (,) AND *is a citizen of the United States or whose* (deceased) husband was (1) a citizen of the United States and a resident of the State at the time of his death; or (2) a resident of the State for a period of two years immediately preceding his decease or commitment OR whose child or children were born in the United States and who (has) declared his intention to become a citizen of the United States within a period of (two) five years immediately preceding his decease or commitment."

I have capitalized the word "or" as it is upon the substitution of this word for the word "and" previously appearing in the statute, that my opinion is asked. The word "or" was neither italicized nor bracketed in the bill. Further its substitution for "and" destroys the grammatical construction of the remainder of the sentence and changes the policy of the law fundamentally in regard to residence. I believe that this is a typographical error, or mistake in copying which should be disregarded. Matter of Riverside Park 95 App. Div. 552.

It is, therefore, my opinion that the word "or," so substituted, should be read "and."

3. Section 153 subdivision 1 was further amended in part as follows:

"A board of child welfare may, in its discretion when funds have been appropriated therefor, grant an allowance to any dependent widow *or to any mother whose husband is an inmate of a State institution for the insane or confined under a sentence of five years or more to a State prison;*
* * *."

What interpretation is to be given this provision where the sentence is indeterminate, say, not less than two and one-half years or more than five? Persons first convicted of a felony are entitled, as a matter of right, to an indeterminate sentence. At the end of the minimum sentence they may be paroled, but only in the discretion of the parole board. They are also entitled to

reduction of the minimum sentence by compensation, which they must earn by affirmative act in labor within the prison. Persons under determinate or definite sentences may receive in addition to compensation commutation. Commutation is credited and regarded in practice as allowed a person as soon as he is received. He loses it by bad conduct.

However, the statute does not take into consideration that a prisoner under a sentence of not less than two and one-half years, or more than five years may be paroled in one year and eleven months, or that a straight sentence may be reduced by commutation. It speaks only of the sentence of five years and not of the contingency that the maximum sentence may be reduced by parole, compensation, commutation or the direct operation of executive clemency. We may not speculate that the convict will be required to serve less than the whole sentence. It is, therefore, my opinion that where the maximum sentence is five years, the prisoner's family may be permitted an allowance, regardless of the term he may actually serve. It should be remembered, however that every allowance is in the discretion of the local boards under the supervision of higher authority. If there is evil in granting allowances to the families of men serving short terms, under long sentences, the discretion entrusted to the boards will curb the evil.

Dated, September 30, 1920.

CHARLES D. NEWTON,

Attorney-General.

To HON. CHARLES H. JOHNSON, *Secretary, State Board of Charities, Capitol, Albany, N. Y.*

CIVIL SERVICE LAW, SECTIONS 10, 12, 14, RULE IV(3).

The provisions of section 14 of the Civil Service Law and of paragraph 3 of Rule IV of the State Civil Service Rules do not preclude the reclassification of a position, the incumbent of which was appointed when the position was classified in the exempt class, without the removal of the incumbent, even when the incumbent has not held the position for three years.

INQUIRY.

Section 14 of the Civil Service Law provides, in part:

“No person shall be appointed or employed under any title not appropriate to the duties to be performed, and no

person shall be transferred to, or assigned to perform the duties of any position subject to competitive examination, unless he shall have previously passed an open competitive examination equivalent to that required for such position, or unless he shall have served with fidelity for at least three years in a similar position."

Subdivision 3 of Rule IV contains the same words.

A position having been classified in the exempt class, and an appointment having been made, if the Civil Service Commission should become satisfied that the position could practicably be filled by appointment from a competitive list, could the Commission reclassify the position in the competitive class regardless of the fact that the incumbent had not been in that position or a similar one for three years?

OPINION.

The Civil Service Commission has a large discretion in the matter of classification of positions under sections 10 and 12 of the Civil Service Law. And where its determination in such matters is not "palpably illegal" it will not be disturbed by the courts. (*Schau v. McWilliams*, 185 N. Y. 92.) If a position is one as to the proper mode of filling which there is a reasonable ground for difference of opinion among intelligent and conscientious officials, the action of the commission in classifying it will stand, even though the courts may differ with the commission as to the wisdom of the classification. (*Matter of Simons v. McGuire*, 204 N. Y. 253.)

This being the case, a change in the personnel of a civil service commission may bring a change of opinion as to the proper classification of a position. Or such a change of opinion may come with experience, without change in the personnel of the commission.

When the commission decides that it is practicable for a position, theretofore classified as exempt, to be filled by competitive examination, the commission has power to reclassify the position, and to advise heads of departments that it cannot again be filled except by appointment from a competitive list.

That this may have the effect of "covering in" the incumbent

of the position cannot limit the power of the commission to reclassify. Nor does it constitute a violation of the provisions of § 14 of the Civil Service Law. That section prohibits the appointment or employment and the transfer or assignment of an unqualified person in a competitive position — but it means *original* appointment, or original employment, not continuation in office nor continuation in employment. It prevents the act of transfer but does not affect a transfer made when the section had no application.

The action of the commission in reclassifying a position by taking it out of the exempt and putting it into the competitive class cannot have the effect of removing the incumbent if his appointment was legal when made. The Civil Service Commission has no power of removal over positions in other departments — and it cannot effect a removal by a change of its rules.

Ordinarily (except in the City of New York) the mere classification of a position in the competitive class does not affect the tenure of the incumbent, as far as *rights* are concerned. He is still subject to removal for any but political reasons (unless he is a veteran, in which case classification does not affect his right to a hearing). As a practical matter, the fact that his successor must be taken from a competitive list, has frequently had the effect of continuing an incumbent in employment through a change of administration, when if his position had remained exempt, he would very probably have been replaced.

But the law does not directly or indirectly limit the power of the commission to “cover in” incumbent of an exempt position. Even when the change affected a man’s *right* to remain in office, the covering in process has been upheld by the courts. (*People ex rel. Sugden v. Partridge*, 174 N. Y. 87; *People ex rel. Wilson v. Knox*, 45 A. D. 537.)

The fact that it may result in “covering in” an incumbent does not make a reclassification violative of section 14 of the Civil Service Law, for a man who is performing certain duties is not “appointed,” “employed,” “assigned,” or “transferred” to that position by the act of the commission in reclassifying it. The commission does not have to wait, before classifying a position in the competitive class, until some incumbent has been in that position for three years. If it were so, the head of a department could defeat the power of the commission by changing his exempt

employees around every two and a half years. On the other hand, the commission has no power of removal over a man, appointed when his position was exempt—and a reclassification cannot effect a removal.

The commission has undoubted power to reclassify a position (except as limited by law), regardless of whether the incumbent has held it for a day or a decade, and the fact that a reclassification may (as a practical matter) protect an incumbent against an independent political change, does not limit the commission's power. It may, of course, affect the commission's discretion in the matter—for there can be political abuses in changes from exempt to competitive class as well as in changes from competitive to exempt. But the discretion of the Civil Service Commission to reclassify is certainly not limited by section 14 of the Civil Service Law, nor by the length of service of the incumbent of any position.

Dated, October 18, 1920.

CHARLES D. NEWTON,

Attorney-General.

TO THE STATE CIVIL SERVICE COMMISSION, *Albany, N. Y.*

GENERAL BUSINESS LAW, SECTION 32—HONORABLY DISCHARGED VETERANS.

Residents of the State who were enrolled as members of military, naval or marine organizations during the Civil War, the Spanish-American War or the World War, or who served over seas and who received discharge other than dishonorable discharge, are entitled to peddlers' license.

INQUIRY.

What are the qualifications to entitle a man to a license to peddle under § 32 of the General Business Law as amended by Laws of 1919, chapter 42?

OPINION.

Section 32 of the General Business Law as amended by Laws of 1919, chapter 42, provides:

“Every honorably discharged soldier, sailor or marine of the military or naval service of the United States, who is a resident of this State and a veteran of the late rebellion, or of the Spanish-American war, or who shall have served beyond sea, shall have the right to hawk, peddle, vend and sell

by auction his own goods, wares or merchandise or solicit trade within this State, by procuring a license for that purpose to be issued as herein provided."

and goes on to provide the method of issuance of the license. There seems to be some room for argument as to just what the Legislature meant when it referred to "honorably discharged soldiers, etc." and also when it referred to "a veteran." I do not think that the Legislature used either of these phrases in its narrow sense. While in the army a distinction is made between an honorable discharge issued to one who has served a full term of enlistment with credit, and an ordinary discharge under honorable conditions, which may be issued to a man who is discharged by reason of physical disability not incurred in the line of duty, I do not think that the Legislature intended to exclude a man holding the latter kind of discharge. I believe it was the intent of the Legislature to grant the peddler's license to all veterans who were discharged, except those who were discharged dishonorably. In other words, I believe that any discharge, except a dishonorable discharge, should be accepted by the County Clerks under § 32 of the General Business Law.

The word "veteran," according to some definitions is restricted to those who have actually been upon the firing line, but it is perfectly clear in my mind that the Legislature never intended to restrict the peddler's license to those who had actually smelled powder, for the whole attitude of the Legislature since the beginning of the war has been to honor equally the soldiers who were sent across to France and those who were ready to go but were not sent.

I therefore believe that any resident of the State who was actually enrolled as a member of an army, navy or marine organization and who was discharged otherwise than dishonorably during the Civil War, the Spanish-American War or the World War, or who served beyond seas, is entitled to a license provided for by § 32 of the General Business Law.

Dated, October 18, 1920.

CHARLES D. NEWTON,
Attorney-General.

TO HON. WILLIAM E. KELLY, *County Clerk, Brooklyn, N. Y.*

MILITARY LAW, SECTION 245, AS AMENDED BY LAWS 1920, CHAPTER 630.

A State officer or employee who had been in the State service for at least one year immediately prior to entering military service is entitled to the rights and privileges conferred by section 245 of the Military Law, regardless of the fact that he may have been transferred from one department to another within a year prior to entering military service.

INQUIRY.

A certain State employee entered the service of the State as a rodman in the State Engineer's Department in October 1913, was appointed leveler in the Highway Department in April 1914, and was appointed a junior engineer in the Public Service Commission on January 2, 1918. He entered military service on May 15, 1918. His service as a State employee in one or another of the positions mentioned above was continuous from October 1913 until he entered the army. He joined the army without the Governor's consent and was later honorably discharged. Is he entitled to be paid the difference between his State compensation and his military compensation for the period of his military service, under the provisions of § 245 of the Military Law?

OPINION

Section 245 of the Military Law provides for certain protection and rights to employees of the State of New York entering the Federal military service under stated conditions. As originally passed, in order to be entitled to the protection of this section, the employee must have been in the military service or have been obligated to join it prior to the passage of the chapter, (L. 1917, ch. 435) or must have been a member of the national guard or naval militia, must have procured the consent of the Governor before enlistment, or must have been drafted. State employees voluntarily joining the army after the passage of chapter 435 of the Laws of 1917, without the Governor's consent, were not entitled to the benefits of § 245 of the Military Law until that act was amended by the passage of chapter 630 of the Laws of 1920, which added a new subdivision 8 to the section and made an appropriation. Subdivision 8 of § 245, as so added, provides:

"An officer or employee of the State who entered the Federal military, naval or marine service subsequent to April sixth, nineteen hundred and seventeen without the consent

of the Governor as required by this section or by chapter four hundred and thirty-five of the Laws of nineteen hundred and seventeen, and who at the time of such entrance shall have served as such State officer or employee for the period of at least one year immediately prior thereto and who shall have been honorably discharged from such service, shall be entitled to the rights and privileges conferred by this section in the same manner and to the same extent as though he had procured the consent of the Governor to enter the Federal service and shall be paid such part of the salary or compensation which he would have received as such officer or employee in excess of the compensation paid to him for the performance of his duty in the military, naval or marine service described in this section, notwithstanding his failure to procure such consent of the Governor."

The question is raised whether a State employee who had not served a full year in the position he held at the time of his enlistment should be given the benefits of this section. In the condition imposed in the section that he "shall have served as *such State* officer or employee for the period of at least one year immediately prior thereto" if the adjective "*such*" was intended to restrict the application in the section to persons who had been in the exact position held for a year it would produce a situation of absurdity and I think it is clear that the Legislature did not intend any such interpretation. A man who had served the State faithfully for twenty years in the same Department and who had received a promotion with a change of title within a year prior to enlistment would be excluded from the benefits of the section, if such an interpretation were given to the statute. In my opinion the adjective "*such*" was used with reference to the State rather than with reference to the office or employment, and I believe that any man who was continuously in the employ of the State for a year prior to enlistment, is entitled to the benefits of this section (if otherwise qualified) even though he may have had within the year (1) a change of salary, (2) a change of title, (3) a transfer from one department to another under § 16 of the Civil Service Law, or (4) an appointment

from a competitive list to a position different from the one he was holding prior to the appointment, so long as there was no gap in his employment by the State.

In the case presented in the inquiry, the employee was continuously in State service from October 1913 until his enlistment in May 1918. He was in the Highway Department from April, 1914 until January 2, 1918, at which time he accepted an appointment in the Public Service Commission. If he had remained in the Highway Department there would be no possible question of his right to the benefits of the section, and I cannot see any logical reason why his change to the Public Service Commission, without any gap in his service, should constitute a bar to his rights.

Dated October 18, 1920.

CHARLES D. NEWTON,
Attorney-General.

TO HON. JAMES B. WALKER, *Secretary, Public Service Commission, 120 Broadway, New York City.*

STATE FINANCE LAW, SECTION 37, AS AMENDED BY CHAPTER 306 OF THE LAWS OF 1919.

It was the intention of the Legislature that a fund, not exceeding \$20,000, should be allowed the manufacturing department of the New York State Reformatory at Elmira as a capital fund for the purchase of raw material, machinery and other necessary expenses connected with the maintenance and operation of such manufacturing department, and all net balances belonging to such fund in excess of \$20,000, at the end of the fiscal year, should be paid into the State Treasury.

INQUIRY

Does subdivision i of section 37 of the State Finance Law, as amended by chapter 306 of the Laws of 1919, permit the manufacturing department of the New York State Reformatory at Elmira to retain all sums of money belonging to such department up to \$20,000, which have been accumulated in a fund pursuant to the provisions of such act, or is such manufacturing department compelled to turn into the treasury of the State all excess of gross receipts over \$20,000, regardless of the fact that such payment would create a large deficit in such manufacturing department funds?

OPINION

Prior to an amendment made by chapter 306 of the Laws of 1919 to section 37 of the State Finance Law, every State officer, employee, board, department or commission receiving money for or on behalf of the State, from fees, penalties, costs, fines, sales of property or otherwise, were required to pay the same to the State Treasurer on the 5th day of the following month after the receipt thereof, and at the same time file with the State Comptroller a detailed, verified statement of such receipts. It was further provided that the section should

“not apply to the manufacturing fund of the state prisons known as the capital fund, nor to the receipts of the manufacturing departments of the state hospitals for the insane, nor to the convict deposit and miscellaneous earning fund of the state prisons, nor to the working capital fund of the state commission for the blind, nor to money received by such commission by gift or bequest, nor to the capital fund of the state reservation at Saratoga Springs.”

It will be noted that there is no specific exception as to moneys received from the manufacturing department of the State reformatories. I do not find that the Attorney-General or any court has ever construed the term “manufacturing fund of the state prisons” as used in section 37 previous to its last amendment to be applicable to the State reformatories, but still they are “prisons” within the meaning and ordinary acceptance of the term.

“Prison: A public building for the confinement or safe custody of persons, whether as a punishment imposed by the law or otherwise in the course of the administration of justice.” Black Law Dictionary and cases cited.

If such place of confinement is owned and supervised by the State it comes pretty close to being a State prison whether it is so classified or not. However, the reformatories are not named in section 70 of the Prison Law which specifies the names and locations of State prisons, and it is not necessary at this time to enter upon a discussion of the subject whether the term “manufacturing fund of state prisons” could be construed to apply to

such reformatories or not as the present inquiry relates solely to an interpretation of section 37 of the State Finance Law as amended by chapter 306 of the Laws of 1919.

Such section, so far as it is necessary to consider its provisions in this opinion, reads as follows:

"1. After this section as amended takes effect every state officer, employee, department, institution, commission, board or other agency of the state receiving money for or on behalf of the state from fees, penalties, forfeitures, costs, fines, refunds, reimbursements, sales of property or otherwise, shall on the fifth day of each month pay to the state treasurer all such moneys received during the preceding month accompanied by a detailed, verified statement thereof and on the same day file a duplicate of such detailed, verified statement with the comptroller, who shall keep an account of such moneys in his office.

2. There are excepted from payment to the state treasurer as provided by subdivision one of this section the following:

i. The receipts of the manufacturing department of the New York State Reformatory at Elmira, except as to any excess of such receipts for any fiscal years over and above the sum of twenty thousand dollars and any liabilities due and payable therefrom.

As to each of the funds so exempted by this subdivision, the custodian or custodians thereof shall file with the comptroller between the first and fifteenth days of each month, a detailed, verified statement of the receipts and expenditures thereof for the preceding month, or at such other times and for such other periods as the comptroller may designate or prescribe.

4. Every state officer, employee, department, institution, commission, board, school, and every officer, employee, department, institution, commission, board and school of a municipal subdivision of the state, and every individual, association, copartnership or corporation not otherwise specified in this section who receives or keeps account of moneys of

the state or of any department or agency thereof, or moneys in which the state has an interest direct or indirect, other than moneys appropriated by law and moneys not required under existing laws to be paid into the state treasury, shall between the first and fifteenth days of each month file with the comptroller a detailed, verified statement of the receipts and the expenditures of such moneys for the preceding month, and at such other times and for such other periods as the comptroller may designate or prescribe.

5. Every person or agency authorized by law to receive moneys of the state or of any agency thereof shall render to the comptroller a report at such time or times as he may require, whether or not any such moneys have been received or expended.

* * * * *

7. This section, as amended, shall be deemed to supersede any other provision of this chapter or of any other general or special law inconsistent therewith."

While the phraseology of subdivision i is not as clear as it might have been written, I think the intent of the Legislature is quite manifest. I think it is apparent that such subdivision was intended to permit the manufacturing department of the Reformatory at Elmira to retain all money belonging to such fund up to \$20,000, at the end of the year, and if there is or should be an excess of such sum of \$20,000 it should be paid over to the State Treasurer. The department is required to render an itemized statement to the Comptroller on the 15th day of each month, and at any other time when he may require it, but the payment of any excess is not required except at the end of a fiscal year (sub. i). To hold otherwise might either completely nullify the purposes of the act, or at least cripple the department in its activities. This is best illustrated by the statement of actual figures made by the Fiscal Supervisor in his letter presenting the subject for my consideration, which reads as follows:

"The Legislature of 1919 made an initial
 appropriation of \$16,200 00
 The institution received from sales etc..... 28,241 14

Total receipts \$44,441 14

The institution expended for materials,
machinery etc., from this..... \$34,596 55

Leaving balance on hand July 1..... \$9,844 59

"This is a small amount and hardly sufficient to carry on the manufacturing plant at Elmira without an additional appropriation.

"It is now intimated that the language of chapter 306 of the laws of 1919 requires the refund to the State Treasury of the sum of \$8,241.14 (excess of receipts of \$28,241.14 over \$20,000).

"This refund, if made, will leave only \$1,603.45 in the so-called Capital Fund and even with the additional appropriation of \$9,000 by the Legislature of 1920 will be insufficient to properly carry on the manufacturing industry at Elmira."

It might happen at the end of any year that the gross receipts would be more than double the capital sum of \$20,000, and if such excess of \$20,000 or more should be taken from the balance that might be on hand at the end of the year it might wholly wipe out the capital sum or so deplete it that the department would be very materially curtailed in its work or rendered incapable of continuing it without additional appropriations from the State. This clearly was not the intention of the Legislature. If the words "net receipts" had been used in the subsection instead of "such receipts" there would have been no misunderstanding as to the meaning, for it is certain that the Legislature did not intend that there should be no account taken of expenditures from such funds in the ascertainment of the amount to be turned into the treasury. And, again, it is suggested by the Fiscal Supervisor that the words "such receipts" should be construed to read "the capital fund," as he argues that it was sought in the drifting of the bill "to establish a so-called capital fund, a sort of revolving fund limited in its maximum to \$20,000." I think there is no doubt but that was just the purpose of the act, and that purpose should not be defeated by an apparent ambiguity in the language employed in the bill.

"A strict and literal interpretation is not always to be adhered to, and where a case is brought within the intention of the makers of the statute, it is within the statute, although by a technical interpretation it is not within its letter. It is the spirit and purpose of a statute which are to be regarded in its interpretation; and if these find fair expression in the statute, it should be so construed as to carry out the legislative intent, even although such construction is contrary to the literal meaning of some provisions of the statute. A reasonable construction should be adopted in all cases where there is a doubt or uncertainty in regard to the intention of the lawmakers. These general rules are upheld by numerous authorities."

Spencer v. Myers, 150 N. Y. 275.

People ex rel. Wood v. Lacombe, 99 N. Y. 43.

The intent of the Legislature is the object of all construction and inconsistencies in the statutes are to be harmonized, even though words are to be disregarded and their literal or usual meaning ignored if thereby the intent can be arrived at.

People ex rel. Gress v. Hilliard, 85 A. D. 507.

Hayden v. Pierce, 144 N. Y. 512-516.

"This result would doubtless follow from a literal reading of the section, but we think that such was not the intention of the legislature."

Id. 144 N. Y. 516.

People v. Davenport, 91 N. Y. 574-583.

A thing which is within the letter of the statute is not within the statute unless it be within the intention of the makers of the statute.

Donohue v. Kooskan, 91 A. D. 602.

Topham v. Interurban St. R. Co., 96 A. D. 323.

Matter of Bd. of Rapid R. R. Comrs., 128 A. D. 112.

Without multiplying authorities, I am of the opinion that only the net balance, over and above the \$20,000 which is authorized

as a capital sum, if there is an excess in such funds after the deduction of all expenditures and the payment of all "liabilities due and payable therefrom," should be paid over to the State Treasurer.

This opinion only applies to the condition of the funds of the manufacturing department of the Reformatory at Elmira during the fiscal years 1919 and 1920, as future appropriations and management will be controlled by section 21 of article III of the Constitution, and under a ruling of this department made in 1917, (Report of Attorney-General, 1917, page 175), it will be necessary to have an appropriation of a sufficient amount made to meet the requirements of the funds for the fiscal year commencing July 1, 1921, as no money can be paid out of such funds except in pursuance of an appropriation unless the payments are made within two years next after the passage of such appropriation. The appropriation in 1921 should include any net balance of the funds which may remain at the end of this fiscal year, as nearly as such balance can be estimated which of course will be a re-appropriation, and an additional amount appropriated, which, together with the amount re-appropriated will total the sum of \$20,000.

November 30, 1920.

CHARLES D. NEWTON,
Attorney-General.

TO HON. FRANK R. UTTER, *Fiscal Supervisor, Albany, N. Y.*

CONSTITUTION, ARTICLE VIII, SECTION 9 — LAWS 1920, CHAPTER 901 — ADVANCEMENT TO AMERICAN SEAMEN'S FRIEND SOCIETY.

The advancement of moneys under chapter 901 of the Laws of 1920 to the American Seamen's Friend Society will not be violative of the provisions of the Constitution, article VIII, section 9, if made in accordance with the terms of chapter 173 of the Laws of 1840 and chapter 37 of the Laws of 1845.

INQUIRY

Do the provisions of section 9 of article VIII of the State Constitution prohibit the advancement of moneys by the Comptroller to the American Seamen's Friend Society under the terms of chapter 901 of the Laws of 1920.

OPINION

In the early years of the last century the State of New York maintained on Staten Island an institution known as "The Marine Hospital." For the purpose of maintaining this hospital certain taxes or tolls were levied which were designated "hospital moneys." Under the provisions of title 4 of chapter 14 of part I of the Revised Statutes of 1828 the rates of tolls on passengers and crews of vessels entering the Port of New York were fixed and the duty of collecting them was imposed upon the Health Commissioner. The moneys received were appropriated to the use of the Marine Hospital. It was provided that the excess of such moneys over the expenses of the hospital and the salaries and fees of officers, was to be turned over entirely to the Society for the Reformation of Juvenile Delinquents of the City of New York. Apparently by the year 1829 the moneys collected were running in excess of the needs of the hospital and the society, for by chapter 302 of the Laws of 1829 the distribution of the moneys was changed so that after paying the expenses of the hospital, etc., \$8,000 of the surplus was payable to the society and the balance went into the hands of the Comptroller to constitute "The Mariners' Fund."

The purpose of the tax in the first instance was to maintain a hospital for mariners; the surplus afterwards was made payable to the Society for the Reformation of Juvenile Delinquents, but when there was more than enough to pay \$8,000 to the society, the balance went into a mariners' fund, the purpose of which was to aid the sailor man in our port. Ships were taxed for the benefit of sailors.

When the Mariners' Fund had accumulated \$10,000, chapter 173 of the Laws of 1840 was passed directing the Comptroller to loan the moneys in the treasury belonging to such fund not exceeding \$10,000 to the trustees of the American Seamen's Friend Society for the purpose of erecting a suitable building for the boarding and accommodation of seamen in the city of New York, the loan to be secured by mortgage and to be re-payable in five years without interest "if required." In 1841 the money was so loaned and a mortgage upon the property of the American Seamen's Friend Society in Cherry Street in New York city was

given to the Comptroller. In 1845, before the maturity of said loan, the Legislature passed chapter 37 of the Laws of 1845, authorizing the trustees of the society to retain, without interest, the loan made in 1841 "so long as the trustees shall faithfully use and apply the same to promote the benevolent objects of the Sailors' Home." The only difference between this loan so extended into perpetuity and an outright gift, was that should the society wind up its affairs, the moneys would be re-payable to the State instead of being divisible among the members of the corporation. But the intent of the Legislature to allow the society to have the money in perpetuity so long as it continued to maintain a Sailors' Home, is unmistakable.

All this took place before the Constitution contained any provision forbidding the giving or loaning of the credit or money of the State in aid of any society, corporation or private undertaking. The provision of section 9 of article VIII of our present Constitution first appeared as section 9 of article VII of the Constitution of 1846, and there was nothing like it in the Constitution of 1821 or that of 1777.

This money was raised by taxation of ships for the benefit of sailors and the Legislature loaned it in perpetuity for the benefit of sailors at a time when the Constitution did not prevent any such loan. The loan continued until 1903 when the city of New York took over the Cherry Street property for an approach to a bridge across the East River. The City might have condemned the property and the State's mortgage interest therein and there is no question in my mind that the Seamen's Friend Society would have been entitled to take the moneys received from the City and apply them to building a new sailors' home without repaying the loan to the State. But in order to expedite matters and simplify the procedure, the society made a deed to the city which paid an agreed price for the land, out of which price the State's loan was repaid to the Comptroller and the mortgage satisfied, thus giving the city a clear title. At the time of repaying the loan an agreement was made between the Seamen's Friend Society and Nathan L. Miller as Comptroller of the State, which recited the acts of 1840 and 1845 and the reasons for making the repayment at the time; and finished by providing: "It is

understood and agreed * * * that said sum of \$10,000 shall be paid to the State Treasurer and said mortgage duly satisfied of record in the usual way but without prejudice, however, to any claim said society may have or application it may make to have said loan continued or renewed without interest in the same manner as is provided in said acts on its being secured by mortgage to the satisfaction of the Comptroller."

The society proceeded to find another site for a sailors' home and opened the West street institution in 1908. In pursuance of its understanding, the society applied to the Legislature in 1920 and chapter 901 was passed reciting briefly the history of the transaction and appropriating \$10,000 out of the treasury for the American Seamen's Friend Society.

The question is now raised as to the validity of this last appropriation, in view of the provisions of the present constitution, section 9 of Article VIII of which provides: "Neither the credit nor the money of the state shall be given or loaned to or in aid of any association, corporation or private undertaking. * * *."

The Constitutions of 1846 and 1894 did not impair the contract between the State and the Seamen's Friend Society, and the loan was perfectly valid in 1903 at the time the city condemned the society's property. The State at that time had no right to demand the repayment of the money, but the exercise of the power of eminent domain granted to the city by the State necessitated a change in the location of the society's building, and in order to facilitate the procedure the society made voluntary conveyance and cleared up the title by repaying the loan, but it took care to notify the State at the time that this repayment was not an absolute repayment but only a conditional one and it in effect reserved the right to have the loan renewed and continued when it should find a new site for the sailors' home. In my opinion the removal and continuance of this loan under the legislative act of 1920, a loan which in itself was perfectly valid, is a violation of neither the letter nor the spirit of the Constitution, provided the loan be renewed on the same conditions and terms as the original loan had attached to it.

If the Seamen's Friend Society will execute a mortgage "to the satisfaction of the Comptroller" I believe it entitled to receive

the money from the treasury as a renewal of the old loan. The act of 1920 does not mention any mortgage and does not refer to the appropriation as a loan but I think it is clear that the intention of the Legislature was to renew the situation as it existed before 1903. It does no violence to the statute to put such a construction upon it and as this is the only construction which would be constitutional it is the one which must be adopted, for if the act be held to intend to give the money outright to the society, of course it would be in conflict with section 9 of article VIII of the Constitution.

Dated December 15, 1920.

CHARLES D. NEWTON.

Attorney-General.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Albany, N. Y.*

**CIVIL SERVICE LAW, ARTICLE IV — STATE EMPLOYEES' RETIREMENT SYSTEM —
COMPENSATION OF JUDGES OF THE COURT OF APPEALS.**

The allowance of \$3,700 per annum, paid by the State since 1898 to judges of the Court of Appeals in lieu of all expenses, is part of their "compensation" within the meaning of that word as used in article IV of the Civil Service Law, and deductions from the salaries and annuities and pensions paid to such of those judges as join the State Employees' Retirement System, should be computed on that basis.

INQUIRY

In computing deductions, annuities and pensions, in the cases of judges of the Court of Appeals who join the State Employees' Retirement System, should the allowance of \$3,700 per annum paid them by the State in lieu of all expenses be regarded as "compensation"?

OPINION

The Court of Appeals passed on an exactly similar question in 1889, in a case where the judges had no possible interest in the determination, and held that an allowance paid by the State to justices of the Supreme Court "in lieu of and in full of all expenses now allowed by law" was a part of their compensation within the meaning of a constitutional provision (since repealed) continuing, under certain conditions, the compensation of justices

after retirement on account of age. (*People ex rel. Bockes v. Wemple*, 115 N. Y. 302.) The opinion of the court, per Judge Gray, contains this language (p. 309):

“This language is substitutional in its effect. It substitutes an annual grant of money to the incumbent, in the place of an allowance for expenses. This, I think, was a clear grant of pay, or compensation, having no connection with the expenses incurred by a justice. As granted by this act, it became, naturally and plainly, as much a part of the compensation to the justice as though his salary, *eo nomine*, had been increased to compensate him further for what his office entailed upon him in the way of duties and work. Expenses or no expenses, he became entitled to the whole of the \$1,200. In my belief, from all that we can divine from language, and by reasoning from cause to effect, the intention of the legislature was to make a permanent addition to the stated salary.”

The allowance of \$3,700 per annum to judges of the Court of Appeals was fixed by the deficiency appropriation bill of 1898 (chapter 606). An appropriation of the necessary moneys was made and the act further provided: “And annually hereafter a like sum shall be allowed for the same purpose in addition to that now provided by law.” None of the present members of the court were members in 1898, so there is no question of whether the payment to them of \$3,700 in lieu of expenses constitutes an increase of compensation in violation of section 9 of article X of the Constitution.

In my opinion, for the purposes of the Employees' Retirement System both in making deductions from compensation of members and in computing annuities or pensions to members, the compensation of judges of the Court of Appeals should be regarded as \$13,700.

Dated December 20, 1920.

CHARLES D. NEWTON,
Attorney-General.

To HON. EUGENE M. TRAVIS, *State Comptroller, Albany, N. Y.*

January 7, 1920.

INCOME TAX OPINIONS

INCOME TAX LETTER NO. 13—PENSIONS OF POLICEMEN AND FIREMEN UNDER GREATER NEW YORK CHARTER.

Pensions of New York city policemen and firemen are not exempt from income tax.

DEAR SIR.—As requested orally I have examined the question. Are pensions paid to policemen and firemen under the Greater New York charter exempt from the income tax? (Tax Law, Art. XVI.)

The pensions paid to members of the New York city police and fire departments do not fall within the rule for pensions paid to teachers in that city. Under the section of the New York charter providing for teachers' pensions, those pensions and the rights to receive them are specifically exempted from any State or municipal tax. (See Income Tax Letter No. 12.) This is not true of the pensions paid out of the police pension fund (Greater New York charter, §§ 351-357) and the fire department relief fund (§§ 789-792). The sections providing for pensions to firemen make no provision for exemption from taxation or execution. The police fund and pensions paid thereunder are exempted under section 352 of the charter from execution. While this has the effect, under section 4, paragraph 5 of the Tax Law, of exempting them from the personal property tax, I do not consider it as exempting them from the income tax, for the following reasons:

Paragraph 5 of section 4 of the Tax Law exempts from taxation "all property exempt by law from execution," but that provision was not passed in contemplation of the income tax, which was not thought of for many years later. It was intended to operate with respect to the taxes then effective or contemplated. The Income Tax Law is a new law, made part of the consolidated Tax Law for convenience, but really an entirely different statute, complete in itself. In this regard it is like the other special tax laws contained in articles IX to XV of the Tax Law. It carries its own exemptions on its face and imposes a tax on the "entire net income as herein defined" of every resident (Tax Law, § 351), and in defining gross income (from which net income is determined by the allowance of deductions) it specifically excludes enumerated items "which shall be exempt from taxation under

this article" (§ 359, par. 2). Under the accepted rules of statutory construction I do not think that the general exemptions in the general act affect the special tax imposed by a subsequent act. Even if we should regard section 4 of the Tax Law as intended to operate with respect to subsequently enacted special taxes, I would deem it repealed *pro tanto* by the provisions of article XVI, imposing a tax on the "entire net income as herein defined," where the definitions referred to specifically enumerate the items exempted and by implication (under the rule *inclusio unius est exclusio alterius*) exclude from exemption all items not so enumerated.

It follows that pensions paid to policemen and firemen cannot be claimed to be exempt from the income tax by reason of anything contained in the Greater New York charter or in section 4 of the Tax Law, and that any exemption from the income tax must be found in the Income Tax Law itself.

The Income Tax Bureau has already prepared a regulation on pensions paid from pension funds, declaring the circumstances under which they should be regarded as taxable and those under which they should be considered exempt. I think that the pensions paid in the police and fire departments of New York city should be treated in accordance with that regulation.

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

ALBANY, N. Y., *January 13, 1920.*

INCOME TAX LETTER No. 14 — CHRISTMAS PRESENTS TO EMPLOYEES.

Christmas gratuities paid by members of New York Clearing House through that organization to its employees are personal service compensation.

DEAR SIR.— As requested orally I have considered the question: Are gratuities given by the New York Clearing House

to its employees at Christmas time to be regarded as income to the employees, or as gifts?

I think that ordinarily a Christmas present to an employee partakes more of the nature of reward for faithful service — compensation — than of the nature of a gift. Of course the element of a gift that it is voluntary, is present, but can we say that it is without consideration, past or present, legal or moral?

In the case of a corporation organized for profit to its stockholders or members, the making of gifts, pure and simple, would be clearly *ultra vires* (except contributions to war charities specially authorized by statute) and any gratuities or bonuses to employees are justified upon the ground that they are in consideration of services, past or expected.

The New York Clearing House is an association of banking institutions. Those members which are corporations cannot make gifts, pure and simple. They contribute their proportion of the expenses of the Clearing House on the theory that their membership therein is necessary *as a part of their business*. And the only basis upon which they can, lawfully, pay their share of the Christmas gratuities, is that it is a part of their business. Unquestionably it tends to improve the morale of the employees, and encourage faithful service. It is good business to pay these bonuses — and business, not generosity, is supposed to be the motive actuating bank directors. Business involves the theory of a *quid pro quo* (past, present, or future) and that, in turn, excludes the possibility of regarding these payments as pure gifts. They must, to be lawful, be based upon consideration. The only possible consideration is services, past or future. I cannot avoid the conclusion that you must regard these payments as personal service compensation.

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

January 17, 1920.

INCOME TAX LETTER No. 15 — BRONX VALLEY SEWER ASSESSMENTS DEDUCTIBLE.

Assessments levied under Bronx Valley Sewer Act are deductible as taxes in computing net income.

DEAR SIR.— I acknowledge receipt of your inquiry of January 12, 1919 with respect to the deductibility under section 360, paragraph 3 of the Income Tax Law of assessments levied under the Bronx Valley Sewer Act (L. 1905, c. 646, as amended).

I have had occasion to examine, at the instance of the Armory Commission, the question of whether these assessments should be regarded as taxes or as assessments for local improvements, for the purpose of determining whether or not the State was liable for them, when assessed against armories. My conclusions are set forth in an opinion dated October 7, 1919, addressed to the Armory Commission, to which you are referred.

My opinion was to the effect that these assessments, by reason of the phraseology of the statute authorizing them and the long term over which they are distributed, must be regarded as taxes (from which the State is exempted by Tax Law, section 4, paragraph 2), rather than as assessments for local improvements (to which the State is subjected by Public Lands Law, section 21). I believe that the same conclusion must be reached in considering them in connection with the Income Tax Law (section 360, paragraph 3), and that they should be regarded as proper deductions from gross income.

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

January 22, 1920.

INCOME TAX LETTER No. 16.

Articles 136 and 434 of Comptroller's regulations are constitutional.

(Opinion obsolete by reason of amendment of statute and regulations.)

February 3, 1920.

INCOME TAX LETTER NO. 17 — SALARIES PAID BY CERTAIN CORPORATIONS, THE STOCK OF WHICH IS OWNED BY THE UNITED STATES.

Salaries paid to employees of Emergency Fleet Corporation, U. S. Housing Corporation, U. S. Grain Corporation, etc., are not salaries paid by the United States to employees of the United States and are exempt from the income tax.

DEAR SIR.—I have considered the question of the taxability under the State Income Tax Law of salaries and wages paid to employees of corporations, the entire stock of which is owned by the United States. The corporations to which my attention has been specifically called are the United States Shipping Board Emergency Fleet Corporation, the United States Housing Corporation, the United States Food Administration Grain Corporation, the United States Sugar Equalization Board, Inc., and the De La Vergne Machine Company. The last named was a business corporation and a going concern before the stock was acquired by the United States. The others were formed under the Law of the District of Columbia, or of one of the states, for the purpose of carrying on some activity deemed necessary by the Government in the prosecution of the war.

For its own reasons, the Government has seen fit to carry on these activities indirectly. Instead of turning them over to departments of the Government, to be carried on by officers and employees of the Government, it has utilized independent corporations — distinct entities with legal personalities. There is no difference between the relations of employees of these corporations to the Government and the relations to the Government of employees of pure business corporations, organized for profit by their stockholders, who happen to make contracts with the United States for supplies. They are not employees of the United States, but of the corporations.

Section 359, subdivision f of the Tax Law, exempts from the income tax "Salaries, wages and other compensation received from the United States of officials or employees thereof." The employees of the corporations are not officials or employees of the United States, but of the corporations, and they receive their compensation not from the United States, but from the separate personalities, the corporations.

The fact that the United States holds the stock of these corporations does not seem to me to affect the ~~taxability~~ of their employees. That "corporate fiction" or "corporate individuality" is sometimes disregarded in equity is true -- where it is being made a cloak for fraud or crime. But at law, the corporation is a person, and the stockholders are not regarded. Tax laws fall in the field of law, not equity.

The fact that certain of these corporations are exempted by Congressional statute from taxation on their property or franchises, does not affect the ~~taxability~~ of their employees on their salaries. We do not tax the property or franchises of religious or membership corporations or of foreign corporations not registered to do business in this State, but we do impose the income tax on the salaries of persons employed within the State by such corporations, and on the salaries of residents employed by such corporations within or without the State. The ~~taxability~~ of a corporation has nothing to do with the ~~taxability~~ of its employees.

I conclude that the salaries of officers and employees of these corporations are subject to the New York personal income tax, where those employees earn their compensation within the State or are residents of the State.

Care should be taken to distinguish between departments of the Government and their employees and these corporations. The United States Shipping Board and the United States Food Administration are departments of the Government, and their members and employees are officials and employees of the United States. But the United States Shipping Board Emergency Fleet Corporation, and the United States Food Administration Grain Corporation are distinct persons. In any given case, care should be taken to make sure whether the employee is an employee of the Government, exempted as to his salary, or an employee of the Corporation, and taxable.

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

February 9, 1920.

INCOME TAX LETTER No. 18 — CORRECTION OF LETTER No. 17.

DEAR SIR.—My attention has been called by Mr. W. P. Powell, of the Corporation Trust Company to a possible misunderstanding which may arise from language in my Income Tax Letter, No. 17. I said therein:

“We do not tax the property or franchises of religious or membership corporations, or of foreign corporations not registered to do business in this State * * *.”

The possibility is suggested that this language might be taken as an interpretation of article 9-a of the Tax Law. That, of course, was not intended. I was merely arguing that the taxability of the corporation and the taxability of its employees upon their salaries are in no way connected. There was no intent on my part to hold that foreign corporations, actually doing business in the State, could avoid the Corporation Franchise Tax by refraining from registering.

I should have been more accurate if I had said “foreign corporations which are not doing business or registered to do business in this State.”

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

February 9, 1920.

INCOME TAX LETTER No. 19.

Salaries of constitutional state officers should be regarded as taxable under the Income Tax Law until the courts hold otherwise.

(Obsolete — See Income Tax Letter No. 38.)

February 16, 1920.

INCOME TAX LETTER NO. 20 — EXTRA-STATUTORY EXEMPTIONS NOT PERMISSIBLE.

Comptroller has no power to grant exemptions from the income tax to members of favored organizations.

DEAR SIR.— I have examined the letter of the Secretary of the Brooklyn Veteran Firemen's Association, dated February 10, 1920, which you referred to me.

The request contained in that letter is that a favored class be created, of the members of that association, to be exempt from the income tax. It is not necessary to discuss the question of whether a favored class ought to be created in this or any other case. It is sufficient to say that there is no power in the Comptroller to do so.

Section 383 of the Tax Law empowers the Comptroller to make rules and regulations necessary to *enforce* the provisions of the income tax article. This does not authorize him to modify those provisions, to grant exemptions not therein provided for, or to classify taxpayers on any basis not specifically created in the statute.

If any special favored classes are to be created, it must be by the Legislature.

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

February 16, 1920.

INCOME TAX LETTER NO. 21 — WITHHOLDING AGENTS — INTEREST WHERE TIME TO FILE RETURN EXTENDED.

Paragraph 1 of section 377 of the Tax Law, charging interest where time to file return is extended does not apply to withholding agents.

DEAR SIR.— I have examined the letter of the Assistant Secretary of the American Telephone and Telegraph Company, dated February 6, 1920, which you referred to me for advice. I agree with his conclusions.

Where an extension of time to file a return is granted by the Comptroller, of course there is no penalty if the return is filed and the tax paid within the extended time.

Where an extension of time is granted to a *taxpayer*, and he pays his tax within the extended time, he must add to it interest at the rate of six per cent per annum. But it should be noted that subdivision 1 of section 377 of the Tax Law only applies to *taxpayers*, not to *withholding agents*. There is no provision in article XVI requiring withholding agents to pay interest on taxes withheld, if paid within a duly extended time.

A taxpayer, whose time is extended, is of course liable for interest on the entire amount of the tax, payment of which has been delayed.

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

February 17, 1920.

INCOME TAX LETTER No. 22 — ROCHESTER EAST SIDE SEWER ASSESSMENTS.

Assessments for the East Side sewer under the Rochester city charter not deductible as taxes in computing net income.

DEAR SIR.—I have examined the Rochester City Charter (Laws 1907, chapter 755) where, in section 118, provision is made for assessments for the East Side Sewer.

The language of this provision satisfies me that these assessments should be regarded as being "assessed against local benefits of a kind tending to increase the value of the property assessed" within the second exception under subdivision 3 of section 360 of the Tax Law.

The phraseology of the Rochester act is entirely different from that of the Bronx Valley Sewer Act referred to in my Income Tax

Letter No. 15, and the reasoning adopted in that letter cannot apply to its interpretation.

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

March 1, 1920.

INCOME TAX LETTER No. 23.

Employees of railroads not operated by the United States are not entitled to exemption on their salaries as employees of the United States.

DEAR SIR.—The statements in my Income Tax Letter No. 6 with respect to employees of the railroads should not be taken to mean that all railroad officers and employees are exempt from taxation upon their salaries under the New York State Income Tax Law. That exemption, by the terms of section 359, subdivision 2, paragraph "f" applies only to salaries, wages and other compensation received from the United States by officials and employees thereof. So, to be entitled to the exemption, the man must be an official or an employee of the United States and be paid by the United States.

The railroads of the country may be said to fall into three classes. With those in the first class, the United States made contracts whereby it took over the actual management, operation and control of the activities of the corporations in matter of transportation. It did not take over the management of miscellaneous operations, such as hotels, coal mines, etc.

To these companies, the United States agreed to pay a rental for the use of the roads, and the receipts from the operation of the roads inured to the United States which fixed its own rates and took over the employees engaged in transportation operations as employees of the government, and fixed their compensation. The companies were not interested in any change of rates or of wages.

In the second class (generally short line roads) the United States entered into traffic contracts with the railroads whereby

the Railroad Administration agreed to route a portion of competitive traffic over its roads, but the control, management and operation was left to the corporations. The receipts inured directly to the corporations and the employees remained employees of the corporations.

The third class includes those roads with which the United States made no special war time arrangement, but which were left to the management and control of the corporations as in pre-war times.

The employees of railroads in the first class, payment of whose salaries was assumed by the United States, must be regarded during the period of governmental operation as Federal employees, but all the officers and employees of those companies engaged in miscellaneous (non-railway) operations, or in the publicity and finance departments of the corporations, the payment and direction of whom was not assumed by the United States, cannot be regarded as United States officials or employees. The general officers of these corporations were in large part taken over by the United States as operating managers, but some of them were specifically excluded from the Federal pay-rolls by the contracts. These latter cannot be regarded as United States officials or employees.

None of the officers or employees of the railroads in the second and third classes mentioned, can be regarded as Federal officials or employees. They had no direct relations with the United States, but were employed by independent corporations which fixed and paid their salaries and directed their activities.

It will be necessary in any given case to examine the facts, and find out with respect to each individual, whether he should be regarded under the rules laid down above as an official or employee of the United States or as employed only by the railroad corporation.

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

March 4, 1920.

INCOME TAX LETTER No. 24.

Duties of nonresidents under Income Tax Law, considered in the light of the opinion of the U. S. Supreme Court in *Travis v. Yale & Towne Mfg. Co.*, holding parts of the act unconstitutional.

(Opinion obsolete by reason of amendment of statute).

March 5, 1920.

INCOME TAX LETTER No. 25 — FEDERAL SURTAXES, ETC., NOT DEDUCTIBLE.

Federal surtaxes being income taxes, are not deductible in computing net income.

DEAR SIR.—I am in receipt of a letter from the Seaboard National Bank, which, in accordance with my practice, I am referring to you for answer. My views upon the question raised are these:

Section 360, subdivision 3, permits the deduction from gross income of "Taxes *other than income taxes* * * *" and the question is raised whether the "surtaxes" imposed by the Federal Income Tax Law are "income taxes" within the meaning of the exception. The same question is likely to arise with respect to "excess profits," "war profits" and "undistributed net income" taxes imposed by the United States.

What the United States actually does is to levy income taxes upon all net incomes (subject to specified credit and deductions), and to levy further "surtaxes" upon specified parts of all incomes in excess of specified amounts. It also levies "war profit taxes" on specified income from special sources, "excess profits taxes" on specified parts of certain incomes, and "undistributed net income taxes" upon certain parts of corporate net incomes. In every case the tax is a tax imposed upon and measured by stated items of income. I regard all these taxes as being based upon the jurisdiction conferred upon the Federal government by the Sixteenth amendment to the United States Constitution, "to lay and collect taxes on incomes, from whatever source derived, without apportionment, etc."

The Treasury Department in a recent "Law Opinion" (O. 974; 1-20-662), discussing the question of whether "undistributed net income taxes" were "income taxes" within the

meaning of those words as used in part of section 252 of the Federal Revenue Act of 1918 (Act of Feb. 24, 1919), said:

"Section 10(a) of the Act of September 8, 1916, as amended, imposes a tax upon the total net income of corporations. This net income is obtained by excluding or deducting from the total gross income certain items. Section 10(c) of the Act, as amended, imposes an 'additional tax.' The inference is that this tax is also an income tax. It is imposed by the same section of the law as imposes the tax upon the total net income of corporations and is imposed under Title 28 of the 1916 Act, as amended, which bears the caption 'Income Tax.' It is imposed not upon the total net income but upon such net income reduced by such amount as is distributed or 'is actually invested and employed in the business or is retained for employment in the reasonable requirements of the business or is invested in obligations of the United States issued after September first, nineteen hundred and seventeen.' Since the undistributed net income tax is imposed on a part of the net income of the taxable year, it is an income tax within the meaning of section 252 of the Revenue Act of 1918."

The reasoning quoted applies equally to "surtaxes," "war profits taxes," "excess profits taxes" and "undistributed net income taxes."

It is my opinion, therefore, that all these taxes should be regarded as "income taxes" under subdivision 3 of section 30 of the New York Tax Law, and should not be deductible in computing net income.

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS.

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

March 12, 1920.

INCOME TAX LETTER No. 26 — STOCK DIVIDENDS NOT INCOME.

In view of decision of U. S. Supreme Court in *Eisner v. Macomber*, stock dividends should not be regarded as taxable income.

DEAR SIR.—I have examined the opinions handed down on March 8, 1920, by the Supreme Court of the United States in the case of *Eisner v. Macomber*. The court holds that a true stock dividend—when a corporation transfers amounts on its books from surplus or undivided profits accounts to capital account and distributes new or unissued stock among its stockholders, *pro rata*, to represent the amount so transferred—does not constitute “income” to the stockholders, within the meaning of that word as used in the Sixteenth amendment to the Constitution of the United States. The decision is not based upon the intent of Congress, but upon the construction of the constitutional amendment.

I do not deem it necessary to consider the merits of the controversy that was before the court. To many, the dissenting opinions may seem as well reasoned as the prevailing opinion. But we must accept it as established that the people in adopting the Sixteenth amendment, authorizing Congress to levy, without apportionment among the states, “taxes on incomes, from whatever source derived,” did not intend to authorize the taxation by Congress without apportionment, of stock dividends.

The rule for construction of constitutional and statutory provisions is the same—words should be understood in their commonly accepted meanings. And the court holds that the commonly accepted meaning of the word “income” does not include stock dividends received and held by stockholders.

The Constitution of the United States puts no limitation upon the power of the State to tax stock dividends, nor does the Constitution of the State of New York, and it clearly appears from the opinion of the Supreme Court that, in the absence of constitutional limitation that power is inherent in sovereignty. I have no doubt of the power of the Legislature to tax stock dividends *as such*—as was done by Western Australia in the Dividend Duties Act (referred to in *Eisner v. Macomber* and upheld in *Swan Brewery Co., Ltd., v. Rex* [1914], A. C. 231), but, in

view of the Supreme Court's decision as to the commonly accepted meaning of the word "income," I do not think that the Legislature, in passing chapter 627 of the Laws of 1919, should be considered to have intended to do so.

It is true that, as between life tenant and remainderman, the courts of New York (also Pennsylvania, California and other states — see dissenting opinion of Mr. Justice Brandeis in *Eisner v. Macomber*) have held that stock dividends partake of the nature of capital, insofar as they represent earnings of the corporation prior to the creation of the life interest, and of the nature of income insofar as they represent earnings during the life estate. But this does not necessarily control in the construction of a law taxing incomes. For example, in Massachusetts, the courts hold that, as between remainderman and life tenant, stock dividends are capital (*Minot v. Paine*, 99 Mass. 101), but they also hold that for purposes of the income tax, they are income (*Tax Comm'r v. Putnam*, 227 Mass. 552). For the purpose of the New York corporation franchise tax, our courts have held that stock dividends are "dividends" by which the tax on the right to corporate existence is measured. (*Peo. ex rel. Pullman Co. v. Glynn*, 130 A. D. 332; *affd.*, 198 N. Y. 605; *Peo. ex rel. Empire State Dairy Co. v. Sohmer*, 218 N. Y. 199.) But that indicates nothing with respect to the question of whether stock dividends are "income" to the shareholders receiving them.

In 1913, the people adopted an amendment to the Federal Constitution permitting the taxation of "incomes," and thereafter Congress passed several laws for the purpose. In 1919, the Legislature of New York passed an income tax law in practically similar phraseology (in this connection) as that of the Congressional acts. While the intent of the Legislature was possibly to do just what Congress was *trying to do*, I think it much safer to say that the intent was to do just what Congress *was doing*. The Supreme Court has told us that Congress could not, and consequently did not tax stock dividends. I think that the Legislature, in levying a tax upon "incomes" intended to tax only those things which are commonly included in the term "income." And the Supreme Court has told us that stock dividends are not included within the commonly accepted meaning of that term.

In view of these facts, and the further fact that the Legislature

is now in session and may promptly overrule me if its disagrees with my conclusions, I advise you that in my opinion the New York Income Tax Law (Tax Law, Art. XVI, added by L. 1919, ch. 627) does not apply to true stock dividends, and they should not be included in taxpayers' returns as gross income.

This only applies to what the Supreme Court terms "true stock dividends." It does not apply to dividends paid in stock of corporations other than those declaring them, nor to dividends paid in stock of the declaring corporation, purchased in the market for the purpose; but only to distributions of new or unissued stock to evidence the transfer upon the books of the company of items from surplus, undivided profits, or some similar account, to capital account.

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

March 31, 1920.

INCOME TAX LETTER No. 27 — INCOME FROM NATIONAL BANK STOCK.

Dividends on stock in national banks are taxable income to residents.

DEAR SIR.— I have examined the correspondence between the Income Tax Bureau and the St. Louis Union Trust Company, in which that Company questions the right of the State of New York to levy an income tax upon income derived from dividends on stock of national banks.

It is conceded that stockholders in National banks may be subjected to a property tax upon their stock. A tax on income from stock is either a tax on property (*Pollock v. Farmer's Loan and Trust Co.*, 157 U. S. 429, 158 U. S. 601) or it is a tax against the person. If a tax against the person, the State of a man's residence has jurisdiction to impose the tax through its power over his person.

"Governmental jurisdiction in matters of taxation as in the exercise of the judicial function, depends upon the power to

enforce the mandate of the State by action taken within its borders, either *in personam* or *in rem* according to the circumstances of the case, *as by arrest of the person* * * *” (from *Shaffer v. Carter*, decided by U. S. Supreme Court March 1920).

The State of New York has power (enforceable by arrest) to tax its residents on income from sources without the State. The only possible limitation on this power is that the State shall not interfere with the functions of the Federal government (*McCulloch v. Maryland*, 4 Wheat. 316). If the taxation of residents on their stock in National banks does not interfere with the functions of the Federal government, I fail to see how the taxation of their income from such stock can do so. There is no question that New York could tax its residents on their stock in National banks, located within or without the State (cf. *Hawley v. Malden*, 232 U. S. 1).

Where a State levies a tax on net incomes generally (less specified exemptions), it is doubtful whether the courts will look to the source of items of gross income for the purpose of saying whether or not jurisdiction exists to impose the tax (cf. *Peck Co. v. Lowe*, 247 U. S. 165; *U. S. Glue Co. v. Oak Creek*, 247 U. S. 321); but it is more likely that they will look only to the power of the State to enforce its mandate within its borders. (*Shaffer v. Carter*, *supra*).

The question of power to tax nonresidents on income from National bank stock does not concern us, for the statute specifically exempts nonresidents from taxation on income from stock (except where it is part of a business carried on within the State — see Tax Law, section 359, paragraph 3).

My conclusion is that income of residents, derived from dividends on the stock of National Banks (wherever situated) should be included in “gross income,” in their returns.

Very truly yours,

CHARLES D. NEWTON,
Attorney-General.

By JAMES S. Y. IVINS,
Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

April 2, 1920.

INCOME TAX LETTER No. 28.

Definition of word "resident" in section 350 of the Tax Law is inclusive but not exclusive.

(Opinion obsolete by reason of amendment of statute).

April 14, 1920.

INCOME TAX LETTER No. 29 — CONTRIBUTIONS TO MILITARY ORGANIZATIONS.

Contributions to military organizations are not deductible in computing net income.

DEAR SIR.—I have considered the question of whether contributions to organizations of the National Guard, the New York Guard, civil associations connected with those organizations and organizations such as the American Legion are deductible items under subdivision 10 of section 360 of the Tax Law. That subdivision permits the deduction to an amount not in excess of fifteen percentum of the taxpayer's net income of contributions or gifts made within the taxable year to corporations incorporated by and associations organized under the laws of this State, and operated *exclusively* for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals.

While these organizations probably do, to some extent, result in educational benefit to members, I think it is obvious that they are not operated exclusively for educational purposes, or for any other of the purposes enumerated under subdivision 10. This being the case, contributions to such organizations are not deductible under that subdivision, and there is no other provision in the Income Tax Law under which they could be deductible.

The question of whether such contributions, some of which undoubtedly result to some extent in a general public benefit, should be deductible is a matter not for the Comptroller, the Attorney-General, or the Courts to pass upon, but one exclusively within the jurisdiction of the Legislature. The Legislature has not as yet seen fit to make them deductible, and until it does so, I must advise you not to permit the deduction of any of them

in the computation of net incomes under article 16 of the Law.

Very truly yours,

CHARLES D. NEWTON,
Attorney-General

By JAMES S. Y. IVINS,
Deputy

To HON. EUGENE M. TRAVIS, *State Comptroller, Income Bureau, Albany, N. Y.*

April 16, 1922

INCOME TAX LETTER No. 30 — SECRECY OF RETURNS.

Income tax returns are not subject to subpoena in collateral proceedings except in accordance with proper judicial order.

DEAR SIR.—I have considered the questions raised by your oral inquiry with respect to subpoenas received from the District Attorney of New York county. These subpoenas call upon you to produce, before the Grand Jury, the income tax returns of certain taxpayers. The proceedings before the Grand Jury do not amount to an inquiry into a violation of the Income Tax Law, but the returns are sought to show possible evidence of other crimes.

I advise you to disregard these subpoenas for the following reasons: Section 384 of the Tax Law provides:

“Except in accordance with proper judicial order or otherwise provided by law; it shall be unlawful for the Comptroller, any agent, clerk or other officer or employee to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this article. Nothing herein shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the Attorney-General or other legal representatives of the state of any report or return of any taxpayer who shall bring action thereon or set aside or review the tax based thereon, or against whom an action or proceeding has been instituted in accordance with the provisions of sections three hundred and eighty and three hundred and eighty-one of this chapter. Reports :

returns shall be preserved for three years and thereafter until the Comptroller orders them to be destroyed.

"Any offense against subdivision one of this section shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or both, at the discretion of the court, and if the offender be an officer or employee of the state he shall be dismissed from office and be incapable of holding any public office in this state for a period of five years thereafter."

I think that a "proper judicial order" means an order in some proceeding under the Income Tax Law. I do not regard a subpoena signed only by an attorney as a judicial order, nor do I think that a subpoena, even if signed by a court, is a "*proper*" judicial order except in a case arising under the Income Tax Law.

I think it was the intent of the Legislature to make the returns and other information supplied under the Income Tax Law *privileged communications* between the taxpayers and the Comptroller, not to be used in collateral proceedings as evidence, without the consent of the taxpayer. In order to extend the privilege beyond protecting the taxpayer against having his returns used against him in collateral proceedings, and to secure their complete secrecy, a very severe penalty is imposed on anybody divulging or making known *in any manner* any of the particulars of the returns.

The object of this is to give the people confidence and to lessen the natural unpopularity of the tax. The Legislature in effect says to the taxpayer: If you will file a return and pay your tax, you need not fear that statements in the return will ever be used against you in any other connection. Should the returns be subject to subpoena in collateral proceedings, a great incentive would be added to existing motives for refraining from filing returns and the number of evasions of the tax would accordingly increase.

If the returns are subject to subpoena in collateral actions, they might as well be generally open to public inspection, for nobody could say until after a return had been produced in court and examined by counsel and the judge, whether it was relevant to the proceeding before the court. And there would be nothing to prevent the demand by attorneys for the production, in an

examination before trial, on a motion, at a trial, or in other proceedings, of any number of returns, made by persons directly or remotely connected with parties to the proceeding. In a "John Doe" proceeding like that now being conducted before the Grand Jury in New York county, where no real party defendant is named until an indictment is found, the District Attorney could call for all the returns in your files — a situation obviously never intended by the Legislature to become possible.

The addition of subdivision 3 of section 384 (L. 1920, c. 60), does not modify my view. The purpose of that subdivision is to make possible the checking up of Federal returns and State returns, or of returns to this State and another State, for the purpose of better enforcement of *income tax laws only*.

In my opinion you should not produce any returns in any collateral proceedings, and I advise you not to do so unless and until the courts or the Legislature overrule my views.

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

April 22, 1920.

INCOME TAX LETTER No. 31 — WITHHOLDING AT SOURCE UNDER REIMPOSED TAX ON NON-RESIDENTS.

Withholding agents should withhold tax at the source for entire year 1920 under provisions of section 366 of Tax Law.

DEAR SIR:—The income tax upon non-residents imposed by chapter 627 of the Laws of 1919 (art. XVI of the Tax Law) was held unconstitutional by the Supreme Court of the United States (*Travis v. Yale & Towne Mfg. Co.*) on the ground that non-residents were discriminated against in not receiving the same exemptions as granted to residents by section 362. This defect in the statute has been cured by chapter 191 of the Laws of 1920 (effective April 14, 1920) which amends section 362, striking out the word "resident." The same chapter adds section 351-A, re-imposing the tax on non-residents for 1919 and for each year thereafter. Section 366, as originally passed is still on the

statute books, and in view of the language of the Supreme Court in the case referred to, I regard it as in full force. The Court said:

"The contention that an unconstitutional discrimination against non-citizens arises out of the provision of Section 366, confining the withholding at source to the income of non-residents is unsubstantial. That provision does not in any wise increase the burden of the tax upon non-residents,
* * *

Thus it becomes the duty of employers of non-residents to withhold from their compensation 1 per cent on the first \$10,000 and 2 per cent on the balance paid in any taxable year (See Income Tax Letter No. 1).

Since the tax is an annual one, it is not practicable for employers now to withhold for 1919, and I do not consider them required to do so. But they should withhold for the entire year 1920, except in cases where the employee ceased to be employed and was fully paid prior to April 14th. What I said under questions 2 and 3 in Income Tax Letter No. 1, applies equally well to present withholding for the 1920 tax.

There is pending in the Legislature an amendment to section 366, which will exempt from withholding the amount of the exemptions granted to the taxpayer under section 362 (\$1,000 for single men, \$2,000 for married men and heads of families, plus \$200 for each dependent). Many withholding agents may prefer to await the passage of this amendment before beginning to withhold. The only risk they will run in so doing is the risk of having an employee resign (after having earned \$1,000 or over) and not leave enough compensation still in the hands of the employer to cover the tax on compensation (less the exemption, should the amendment pass) paid between January 1 and the time of resignation.

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

May 14, 1920.

INCOME TAX LETTER No. 32 — INCREASED TAXES AND INTEREST UNDER TAX LAW, SECTION 377 AS AMENDED BY LAWS 1920, CHAPTER 692.

Computation of increased tax penalties and interest under Income Tax Law as originally passed and as amended by Laws of 1920, chapter 692, discussed.

DEAR SIR.— The Governor on May 10, 1920, signed chapter 692 of the Laws of 1920, materially changing the provisions of sections 376 and 377 of the Tax Law. This amendment, effective immediately affects the possible penalties which may accrue against persons now in default in payment of their income taxes.

Where the act penalized was entirely completed prior to the amendment, penalties accrued under former section 376, are not affected (cf. General Construction Law, section 93; 1 McKinney, Consol. Laws, sections 19, 20), but where the act was not completed on May 10, 1920, but required some further act or failure to act after that date to render the imposition of a penalty proper, the penalties should be computed and enforced under the terms of the amendment.

Thus: If a taxpayer made a return in due time for the taxable year 1919, but (without fraud or negligence) underestimated the amount of his tax, and paid the underestimated amount, no penalty was imposed under former section 376, and no penalty would accrue until thirty days after he had been notified of the deficiency by the Comptroller (old section 379, paragraph 3). If he paid the deficiency prior to May 10, 1920, no penalty could be imposed or interest charged. But the amended provisions of section 377, paragraph 3, change the time, within which payment must be made, from thirty days to ten days after notice, and impose interest and penalties under stated circumstances. So that where a taxpayer (without fraud or negligence) made a return but underpaid his tax, and had not paid the difference by May 10th, he became subjected to the new provisions. He now will have only ten days after notice, in which to pay the tax (or ten days from May 10th if notice was given before then), but should add to the amount of the unpaid tax the interest provided for in amended section 377, paragraph 3 (one per cent for each month or fraction from May 10th to date of payment).

If the taxpayer made a return in due time, but negligently or fraudulently underestimated the tax, and only paid the under-estimated amount, the negligence or fraud was a completed act prior to May 10th and cannot be penalized under the new provisions, but interest at 1 per cent per month or fraction from May 10th to date of payment should be added — for this interest is not a penalty but a charge for the use of moneys due the State. Of course where the underestimate was fraudulent, probably the return itself contains elements of fraud, and, the fraudulent act having been committed under the old provisions, it may still be punished under their terms — by prosecution for a misdemeanor (old section 376, paragraph 1) and doubled tax (old section 376, paragraph 3). The double tax would carry interest at 1 per cent per month or fraction from May 10th under the new provisions of section 377, paragraph 3.

Returns, the time to file which has been extended and not yet expired, will fall entirely within the new provisions.

The power of the comptroller to waive or reduce additional taxes and interest, conferred by amendment to section 379 cannot be considered retroactive, and penalties or interest accrued prior to May 10th should be enforced under the old provisions.

Yours, very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax
Bureau, Albany, N. Y.*

May 15, 1920.

INCOME TAX LETTER No. 33—DEFINITION OF "RESIDENT" AS MODIFIED BY LAWS OF 1920, CHAPTER 691.

Definition of resident under section 350 of Tax Law as amended by Laws of 1920, chapter 691, excludes persons moving out of the State before July 1st.

DEAR SIR.—On April 2, 1920, I wrote you (Income Tax Letter No. 28) with respect to the definition of the term "resident" as used in the New York Personal Income Tax Law. On May 10, 1920, the Governor signed chapter 691 of the Laws of 1920 amending, among other provisions, subdivision 7 of section 350 of the Tax Law, defining "resident." This new enactment is by its own terms retroactive, applying to the 1919 tax as well as future taxes, so my advice of April 2d must be withdrawn.

The new provision is as follows:

"The word "resident" applies only to natural persons and includes for the purpose of determining liability to the tax imposed by this article upon or with reference to the income of any taxable year, commencing with the year nineteen hundred and nineteen, any person who shall, at any time during the last six months of the calendar year, be a resident of the state."

In other words only those persons who were resident in the State between July 1 and December 31 (inclusive) of any year are taxable as residents for that year. It should be borne in mind that the tax is collected in the year following the year for which it is levied. So a person who resided in New York between July 1, and December 31, 1919, is liable for the 1919 tax even though he left the State between January 1 and March 15, 1920. What I said in Income Tax Letter No. 28, with respect to the difference between the Massachusetts theory and the New York theory still holds true.

Where a person resided in New York between January 1 and June 30, 1919, or between January 1 and March 15, 1920, but not between July 1 and December 31, 1919, he was taxable as a resident, as the law formerly stood, but the retroactive amendment places him in the class of nonresidents for the taxable year 1919. If any persons so situated have filed returns as residents,

they should be permitted to substitute nonresident returns, and in proper cases refunds should be made.

Yours, very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

May 22, 1920.

INCOME TAX LETTER No. 34 — INCOME OF NON-RESIDENTS FROM DIVIDENDS OF PERSONAL SERVICE CORPORATIONS.

Nonresidents are not taxable on dividends from personal service corporations.

DEAR SIR.—I have examined the letter you submitted to me, which mentions a personal service corporation organized and operating in New York, having a nonresident stockholder who draws only a small salary from the corporation but receives large dividends. The earnings of the corporation are almost entirely due to the services of the individual stockholders and the dividends which the nonresident stockholder receives are, in effect, for services which he performs in the State of New York.

The New York Tax Law does not make a special class of "personal service corporations," as does the Federal "Revenue Act of 1918." They are treated like any other business corporation, and dividends on their stocks are not included in "gross income" of nonresidents under article XVI of our Tax Law.

Section 359 of subdivision 3 provides:

"In the case of taxpayers other than residents, gross income includes only the gross income from sources within the state, but shall not include * * * dividends from corporations, except to the extent to which the same shall be a part of income from any business, trade, profession or occupation carried on in this state subject to taxation under this article."

I do not believe that the nonresident stockholder in a personal service corporation comes within the exception contained in the

latter part of the quotation. That exception was intended to apply to cases where a nonresident carried on a business in the State, as a part of which business he holds stocks on which dividends may accrue. A banker, broker or dealer in securities, is likely, as a part of his business to have securities on hand for the purpose of reserve, purchase and sale, or speculation, and when he receives dividends they are taxable. A partnership, having a nonresident member, may hold securities as partnership assets, crediting dividends as partnership profits. The nonresident partner would be taxable on his entire profits from the partnership.

But I do not think that because the dividends of a personal service corporation are due in part to the efforts of a nonresident stockholder acting in New York, he should be regarded as owning his stock *as a part of a business* carried on in the State. His ownership of the stock is independent of any business he carries on. The business in New York — his efforts on behalf of the corporation — may be incidental to his ownership of the stock, but the ownership is not incidental to the business.

The corporation pays its tax (measured by dividends) under article IX-a of the Tax Law, just as any other business corporation, and I think the stockholders should be treated like stockholders in any other business corporation.

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

May 29, 1920.

INCOME TAX LETTER No. 35 — DISTRIBUTION BY COUNTY TREASURERS.

Instructions to county treasurers for distributing income tax moneys among localities.

DEAR SIR.—As requested, I have attempted to draw some simple instructions for county treasurers to follow in distributing income tax moneys under section 382 of the Tax Law as amended by chapter 694 of the Laws of 1920.

County treasurers will from time to time receive from the Comptroller, checks for income tax moneys apportioned to their counties.

They should distribute these moneys among the towns, cities and villages of their respective counties, as follows:

(1) The tax rolls to be used in making computations are the last preceding completed rolls, of towns, cities and villages, upon which State, county, city or village taxes have been levied. Rolls not yet finally completed and rolls upon which taxes have not yet been levied, should not be used. Only the real property assessments on any of these rolls should be used — not personal property or bank tax assessments.

(2) In making computations cities (except Dunkirk and Ogdensburg) should be treated like towns containing no villages or parts of villages. The cities of Dunkirk and Ogdensburg should be treated like villages.

(3) The county treasurer should add together the (real property) assessment rolls of all the towns and cities (except Dunkirk and Ogdensburg) in his county.

(4) The amount of the roll of each town or city should then be divided by the total of all the towns and cities. The quotient will be a decimal, representing the fraction apportionable to the town or city.

(5) By multiplying the amount received from the Comptroller, by the decimal of each town or city, the amount apportionable to the town or city will be found.

(6) No further division is necessary in cases of cities (other than Dunkirk and Ogdensburg) or in cases of towns which contain no villages or parts of villages, but the county treasurer should pay to the chief fiscal officer of the city or the supervisor of the town the amount determined under paragraph 5 above.

(7) In Westchester county the treasurer should pay to the supervisors of the towns the amount determined under paragraph 5 above, even where towns contain villages or parts of villages.

(8) In cases of towns containing villages or parts of villages (except in Westchester county), the county treasurer should divide the money apportioned to the town under paragraph 5 above, as follows (the cities of Dunkirk and Ogdensburg should be treated like villages under the following instructions):

(9) Where the town contains one village, the town assessment roll should be added to the village assessment roll. The amount of the town roll should then be divided by this total. The result will be a decimal fraction by which the amount apportionable to the town under paragraph 5 above should be multiplied to determine the town's share. The town's share so determined, should be paid to the supervisor. The amount of the village roll should be divided by the sum of the town and village rolls, the resulting decimal being multiplied into the amount determined under paragraph 5 above. The product will be the share of the village, to be paid to the chief fiscal officer of the village.

(10) Where a town contains part of a village, which also lies partly in another town, the part of a village lying within the town is treated as a village in making calculations under paragraph 9, but the village tax roll should be used only insofar as it covers real property in that town. The other part of the village, and the other part of its tax roll should be treated separately with the other town in which it lies.

(11) Where a town contains two or more villages or parts of villages, the total of the tax roll of the town and the tax rolls of all the villages or parts of villages is the divisor by which each of these rolls should be separately divided to determine the fraction of the moneys attributed to the town (paragraph 5), which that municipality is to receive.

Yours, very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

June 10, 1920.

INCOME TAX LETTER No. 36 — EXEMPT PROPERTY NOT INCLUDED IN ASSESSED VALUATIONS.

County treasurers, in computing distributions of income tax moneys, should exclude from assessable valuations all exempt property.

DEAR SIR.—A question raised by one of the County Treasurers indicates to me the necessity of supplementing my income tax letter No. 35 as follows:

In making computations for the distribution by county treasurers of income tax moneys among towns, cities and villages, the assessments of real property only should be considered.

Real property includes special franchises, and the assessments against special franchises should be included, but assessments against personal property and bank tax assessments should not be included.

Property "exempt" upon assessment rolls should not be included. Technically there is no "assessment of exempt property. Section 6 of the Tax Law provides: "All real and personal property subject to taxation shall be assessed * * *. This does not include property exempt from taxation. Section 15 of the Tax Law requires the assessors to make a report of the exempt property in their districts. This report is not technically an assessment for convenience, and to simplify the making of the report. It has been customary to enter the exempt property upon the assessment rolls with its value, marking it exempt, but such property is really not "assessed," and the value of it constitutes no part of the assessed valuations of real property.

Very truly yours,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *Comptroller, Income Tax Bureau,*
Albany, N. Y.

June 18, 1920.

INCOME TAX LETTER NO. 37—DISTRIBUTION BY COUNTY TREASURERS—
VILLAGE ROLLS.

County treasurers in distributing to villages should base computations on comparison of town and village tax rolls and not on comparison of town tax rolls with portions of the same represented by property within the village.

DEAR SIR.—An inquiry from the treasurer of Monroe County indicates the necessity of a further supplement to my Income Tax Letter No. 35.

Section 382 of the Tax Law as amended by chapter 694 of

the Laws of 1920 provides for distribution of income tax moneys to and by county treasurers.

The first part of the section provides that the Comptroller shall divide specified moneys among the treasurers of the several counties "in the proportion that the assessed valuation of the real property of each county bears to the aggregate assessed valuation of the real property of the State."

Nothing is said in this part of the section as to which rolls shall be used, but the town and city rolls cover all the real property in the State, and the State and county taxes are levied upon them. I think the comptroller justified in making his distribution upon the basis of these rolls. This distribution to the county treasurers is very properly made on the basis of what might be called the county rolls — the rolls equalized by the State Board of Equalization — consisting of the values found on town and city rolls.

Similarly when a county treasurer apportions moneys among the towns and cities, he should follow the town and city rolls.

But when it comes to the division of the amount apportioned to a town between the supervisor and the fiscal officers of the villages contained in the town, the village rolls must be considered. By this is meant the rolls prepared by the village assessors, under which the village taxes are levied. It does not mean that part of the town roll covering the territory of the village. In some cases the village assessors accept the assessments of the town assessors, but where they do not do so, but make their own assessment, it is this assessment which must be taken in conjunction with the town roll in making computations.

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *State Comptroller, Income Tax Bureau, Albany, N. Y.*

August 30, 1920.

INCOME TAX LETTER NO. 38 — TAXABILITY OF CONSTITUTIONAL OFFICERS.

Salaries of officers whose compensation is fixed by the Constitution are not taxable income. Salaries of officers named in the constitution whose salaries are not fixed therein are not taxable income during the term for which those offices had been chosen at the time the statute took effect.

DEAR SIR.— On February 9, 1920 in income tax letter No. 19 I considered the question of taxation under the State Income Tax Law, of salaries of officers named in the constitution.

Section 9 of article X of the State Constitution provides:

“ No officer whose salary is fixed by the Constitution shall receive any additional compensation. Each of the other State officers named in the Constitution shall, during his continuance in office, receive a compensation to be fixed by law, which shall not be increased or diminished during the term for which he shall have been elected or appointed
* * *.”

There are similar provisions in section 1 of article V (covering officers named in that article), and in section 15 of article VI (covering county judges and surrogates).

In income tax letter No. 19 I discussed the available authorities on both sides of the question of whether these constitutional provisions had the effect of exempting the officers named from taxation upon their incomes. I stated in conclusion, “ it is obvious that there is much to be said upon either side of this question, but in view of the fact that acts of the Legislature are entitled to the presumption that they are constitutional and since one of my duties is to plead for the constitutionality of statutes and another is to protect the public treasury, I would hesitate to hold this act unconstitutional unless satisfied beyond a reasonable doubt that such were the case. And I am not satisfied that the balance swings against the constitutionality of the law,” and I suggested that it would be well to have the question raised in the courts, that a final determination might be had. Since then the Supreme Court of the United States in the case of *Evans v. Gore* (decided June 1, 1920), has passed upon a similar provision in the United

States Constitution, to the effect that the compensation of Federal judges "shall not be diminished during their continuance in office." The court was divided and the prevailing and dissenting opinions respectively considered the authorities cited upon both sides of the question in my income tax letter No. 19, but the majority of the court arrived at the conclusion that the constitutional inhibition against diminution of salary during continuance in office prohibited the levy of an income tax upon the officers protected, in so far as their salaries were considered as a part of their income.

In view of this decision I am no longer in doubt as to what should be considered the law under our State Constitution, as I think it unquestionable that the Court of Appeals would follow the prevailing opinion in the United States Supreme Court. Such being the case, I advise you that in my opinion the State Income Tax should not be levied against the salaries of officers protected by the sections of the constitution as mentioned above. In other words, these salaries should be excluded from gross income in the returns made by these officers.

Some of the State officers have their salaries exactly fixed in the constitution — the Governor (article IV, section 4), Lieutenant Governor (IV, 8), members of the Legislature (III, 6) and justices of the Supreme Court (VI, 12). The salaries which may be fixed by the Legislature cannot be increased or diminished during the term of office, even by the imposition of an income tax. It follows *a fortiori* that salaries which are absolutely fixed by the constitution cannot be so diminished, and these officers are not subject to the income tax upon their salaries while the constitutional provisions remain unchanged.

The officers whose salaries may be fixed by the Legislature and who had been elected prior to the enactment of chapter 627 of the Laws of 1919, are not subject to the income tax during the period for which they then stood elected, but officers elected since that day are subject to the tax.

The officers so protected include the Secretary of State, the Comptroller, the State Treasurer, the Attorney-General, the State Engineer and Surveyor, the Superintendent of Public Works, the

three Assistant Superintendents of Public Works, the Superintendent of State Prisons, the Clerks of the Court of Appeals and the Appellate Divisions of the Supreme Court and the County Judges and Surrogates. This list is not exclusive. There may be others whom I have overlooked in a hasty examination of the constitution.

I suggest that under the powers vested in you by the Income Tax Law, you refund to such of these constitutional officers as have paid income taxes to which they were not liable, the amounts of the taxes computable upon their salaries.

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *Comptroller, Income Tax Bureau,
Albany, N. Y.*

September 23, 1920.

INCOME TAX LETTER No. 39 — ALLOCATION OF EARNINGS BY ACCOUNTANTS, ETC.

Allocation of business done within and without the state by accountants and others maintaining offices in several places discussed.

DEAR SIR.— As requested, I have examined the correspondence between the audit division and a certain firm of accountants, who submitted a proposed alternative basis of apportionment under Article 470 of the income tax regulations.

While public accountants, insofar as the activities of members of the firm are concerned, undoubtedly practice a profession, it seems to me that insofar as they employ others on salary and charge their clients for the services rendered by these others, they are carrying on a business. It is impossible to draw strict lines between businesses, trades, professions and occupations, for the term "occupation" undoubtedly includes the other three terms. The term "business" may easily include trade, and to a certain extent profession, and it is hard to say in some cases whether an occupation will be regarded as a trade or as a profession. For the purposes of the Income Tax Law, it is not necessary to make

any definite distinction, however, for the words "business, trade, profession or occupation" as found in different sections of the Income Tax Law, and different articles of the regulations are used conjunctively rather than disjunctively.

Section 351 of the Tax Law imposes the income tax on the entire net income "from every trade, profession, business or occupation carried on in this State by natural persons not residents of the State." The law makes no specific provision for the allocation of business, trade, profession or occupation when carried on both within and without the State, but under the power to make regulations conferred by section 383, the Comptroller has laid down rules for such allocation in Articles 415, 455, 456 and 457 of the regulations, and has provided in Article 470 that a non-resident may submit an alternative basis of apportionment which, if approved by the Comptroller, will be accepted. The allocation of earnings of businesses carried on in several States, like the allocation of intangible property in such businesses, is always a difficult matter, and one in which no rules can be formulated which will be sure to work exact justice in every case. The courts in passing upon statutes providing for the allocation of intangible property have held many distinct schemes to be just and proper. The only conclusion to be drawn from the various decisions of the courts is that where the scheme is based on reason, and the rule is such that it will probably result in substantial justice in the general run of cases, the courts will not interfere because in a given case it is possible to suggest another rule which may seem more equitable.

I have no doubt that the rule adopted in the Comptroller's regulations is one based on sound reason, and calculated to do substantial justice generally. Cases may arise in which the general rule would be inequitable, and to take care of such cases the Comptroller has provided in Article 470 for the submission on the part of taxpayers of alternative methods of apportionment, but whether any proposed alternative method shall be accepted is a matter in the discretion of the Comptroller, and I do not think that any taxpayer would be able to compel by judicial action the acceptance of a proposed alternative method. If a taxpayer could show clearly that the general rule would work inequitably in his

case, he might compel a modification of the rule, though it is doubtful whether he could do that without showing that the rule was generally inequitable, but even were the taxpayers in a position to compel a modification of the rule, I do not think he could compel the adoption of a rule proposed by him. The most the court would do would be to require the adoption of some rule which would work equitably.

In the specific case under consideration, the accountants carry on business through offices in five states and agencies in six more states and one foreign country. Under the rule as laid down in the regulations, presumably the value of real property and tangible personal property would be but a small factor in allocation, and the allocation would be on the basis of personal service compensation paid and charges for services performed in connection with the business carried on within and without the State. Under Article 415, a business, trade, profession or occupation is regarded as carried on within the state when the taxpayer maintains an office, shop, store, warehouse, factory, agency or other place where his affairs are systematically and regularly carried on therein, and if no such place of business is maintained without the state, the business is regarded as carried on wholly within the state (Article 455). Similarly, when no such place of business is maintained within the state, the business is regarded as carried on wholly without the state (Article 456). Where such places of business are maintained both within and without the state, the business carried on within and without the state is allocated on the basis of business done through the different offices (or places of business).

That this rule is one calculated to result in an equitable distribution in the majority of cases, and one which would be sustained as just by the courts, I have no doubt.

The Comptroller has adopted a different basis of apportionment of the earnings of non-resident employees, which are allocated on the basis of the places where services are rendered. This rule too seems to me just, and it would be inequitable to attempt to allocate the earnings of an employee on the basis of the office from which he was paid, but the difference between the situation of a business and the situation of an employee makes necessary different rules in the two cases.

The taxpayers in the case under consideration think that the basis adopted for employees would be fairer in their case than the basis adopted for businesses, but their proposed method of allocation is neither the one nor the other. They propose to allocate on the basis of the location of their clients. While the Comptroller might in his discretion accept this basis, if satisfied to its equity, I consider him fully justified in refusing to accept it, if not so satisfied. It may very well be that the location of clients is not indicative of the true value of business within and without the state. Many professional men having offices only within the State of New York regard themselves as doing business within the State for clients without the State, for whom they actually perform services beyond the State's boundaries.

In their correspondence the taxpayers admit that if they maintained only one office, and that were within the State, they could properly be held to be carrying on business wholly within the State. Suppose they had an office in New York from which they sent members and employees into New Jersey to audit books of their clients. The entire business handled from the New York office would be taxable in New York. Suppose they now opened another office in Philadelphia and from it handled business in Pennsylvania and examined the books of clients in Delaware. The same amount of business would still be transacted from the New York office. The receipts from New Jersey clients under the first supposition would be taxable in New York as part of a business carried on within New York. Should the opening of the Philadelphia office, which in no way touches the New Jersey clients nor the business done for them, change the situs of that part of the business? I am satisfied to the contrary. If we were to hold that it did, any non-resident having a single office in New York, but rendering services to clients in other states, would be able to shift the taxability of much of his income from such clients by merely opening an office or engaging desk room in another state.

While, of course, it is possible for the accountants to handle a large part of their New York business from the Philadelphia office instead of from the New York office and thus reduce their taxability in New York, that is their privilege just as it is the

privilege of an individual to move his residence from one state to another.

Should you believe that the alternative basis proposed by the accountants in the case before me is not a better basis for equitably apportioning the earnings of firms situated as they are, I consider you fully justified in insisting upon the basis set forth in the regulations.

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS, *Deputy.*

TO HON. EUGENE M. TRAVIS, *Comptroller, Income Tax Bureau,*
Albany, N. Y.

December 17, 1920.

INCOME TAX LETTER No. 40.

RENEWAL COMMISSIONS ON INSURANCE POLICIES WRITTEN BEFORE JANUARY 1, 1919.

Renewal commissions on insurance policies are taxable income, even in cases where the policies were written prior to January 1, 1919.

DEAR SIR.—The income tax bureau ruled some time ago that where an agent of an insurance company had written a policy prior to January 1, 1919, but under his contract was entitled to receive commissions upon premiums paid after that date to continue the policy in force, the earning of which commissions required no further act on the part of the agent, they will be regarded as money earned and accrued prior to January 1, 1919, and not be deemed taxable under the Income Tax Law.

In making such ruling the Bureau was undoubtedly thinking entirely of the fact that no further act on the part of the agent was necessary to entitle him to the renewal commissions and that his work was entirely done prior to January 1, 1919; and overlooked the fact that the payment of such renewal commissions was necessarily contingent upon the payment of premiums by the policy holder after January 1, 1919. At the time the agent did his work there was no possible way of telling how many renewal commissions would become due. If we had had an Income Tax Law prior to 1919 the renewal commissions certainly could not

have been taxed at the time the policy was written. That being the case, they are to be regarded as taxable at the time they are received.

The Federal Income Tax Law and the State Income Tax Law are similar in their provisions with respect to the inclusion of earnings in gross income and the Federal government made rulings with respect to moneys earned prior to March 1, 1913, and paid thereafter similar to the general rules adopted in the regulations of our Income Tax Bureau.

The Federal courts were called upon to pass upon the question of the taxability of renewal commissions on policies written prior to March 1, 1913, and they held that such commissions were taxable when received. The soundness of the reasoning in these cases is unquestionable, and I advise you that they should be accepted as precedents (*Edwards v. Keith*, 224 Fed. 585; s. c. 231 Fed. 110; *Woods v. Llewellyn*, 252 Fed. 106).

I advise that you amend your rulings and treat renewal commissions as taxable to the agents when received by them regardless of the time at which the policies may have been written.

Yours very truly,

CHARLES D. NEWTON,

Attorney-General.

By JAMES S. Y. IVINS,

Deputy.

TO HON. EUGENE M. TRAVIS, *Comptroller, Income Tax Bureau,*
Albany, N. Y.

**OPINIONS ON APPLICATIONS FOR LEAVE
TO COMMENCE ACTIONS IN NAME OF
PEOPLE, ETC.**

OPINIONS ON APPLICATIONS FOR LEAVE TO COMMENCE ACTIONS IN NAME OF PEOPLE, ETC.

BEFORE THE ATTORNEY-GENERAL

In the Matter of the Application of WILLIAM S. RISING for the Commencement of an Action for the Dissolution of EAGLE PAINT AND VARNISH Co., INC.

Application by William S. Rising for the commencement of an action by and on behalf of the people for a dissolution of Eagle Paint & Varnish Co., Inc., upon the ground that said corporation has suspended its ordinary and lawful business for at least a year.

The petitioner appeared by Hector McG. Curren, his attorney. No appearance by the respondent.

FACTS

The Eagle Paint & Varnish Co., Inc. is a domestic corporation organized under the Laws of the State of New York on the 19th of February, 1914, for the purpose of manufacturing, selling and dealing in all kinds of paints, oils and varnishes. It was capitalized at \$10,000 with its principal place of business at Niagara Falls, N. Y.

The directors and stockholders of the corporation at the commencement of its business were James McAuliff, Alexander Page and Richard H. Acott, none of whom can be located at the present time except Mr. Page, who was duly served with notice of this application but failed to appear.

The corporation ceased to do business in about a year after it was incorporated. No certificate was ever filed with the Secretary of State showing that one-half of the capital stock of the corporation had been paid in within one year, as required by section 5 of the Business Corporation Law, and has not functioned as a corporation so far as shown by the verified petition since the first year after its incorporation.

A letter has been filed upon this application, signed by Moore & Killian of Niagara Falls reading as follows:

"September 21, 1920.

MR. HECTOR MCG. CURREN, 375 *Fulton Street, Borough of Brooklyn, N. Y.:*

DEAR SIR.—Mr. Page is in receipt of the petition and notice relative to application for dissolution of Eagle Paint and Varnish Company, Inc. Mr. Page is willing that dissolution shall take place as the company has gone out of business and has no assets. Mr. Page is the only director or stockholder residing hereabouts and whose place of residence is known to us at the present time.

Very truly yours,

(Signed) MOORE & KILLIAN."

A company represented by the petitioner, by the name of "Eagle Paint & Varnish Works" has been doing business for a number of years, as a firm, and now desires to incorporate under that name but is unable to do so on account of the similarity of the name under which it intends to so incorporate to that of the Eagle Paint & Varnish Co., Inc.

REPORT

The said Eagle Paint & Varnish Co., Inc., having wholly suspended its ordinary and lawful business for at least a year, and upwards, has rendered itself clearly liable to dissolution under the provisions of article VI of the General Corporation Law and I do hereby recommend that an action be commenced by and in behalf of the People for a dissolution thereof, upon the petitioner filing in this department a bond and assent to the terms and conditions upon which such action is allowed and that Hector McG. Curren be designated to commence and prosecute such action in the name of the Attorney-General upon his signing and agreeing to such terms and conditions.

Dated, October 6, 1920.

GEORGE A. FISHER,

Second Deputy Attorney-General.

Approved October 6, 1920.

CHARLES D. NEWTON,

Attorney-General.

By J. L. CHENEY, *First Deputy.*

BEFORE THE ATTORNEY-GENERAL

In the Matter of the Application of WILLIAM S. RISING for the Commencement of an Action for the Dissolution of EAGLE PAINT & VARNISH Co., INC.

On reading and filing the report of George A. Fisher, Second Deputy, dated October 6, 1920, which has been duly approved by me, I do hereby

Order and direct that an action be commenced in the name of the people against the Eagle Paint and Varnish Company, Inc. for a dissolution thereof, upon the petitioner executing and filing with me a bond in the penal sum of two hundred and fifty dollars, to be approved by me, to protect the State against all costs and claims growing out of such action and Rector McG. Curren of 375 Fulton street, Brooklyn, New York is hereby designated to commence and prosecute such action, in my name as Attorney-General, but without compensation from the State of New York, upon the said petitioner and such designated attorney executing and filing with me the assent to the terms and conditions upon which such action is allowed to be commenced, appended to such bond.

Dated, October 6, 1920.

CHARLES D. NEWTON,

Attorney-General.

By G. A. FISHER, *Second Deputy.*

BEFORE THE ATTORNEY-GENERAL

In the Matter of the Application of STANTON M. CHILD for the Commencement of an Action Against THE KEEPSAFE COMPANY, INC., for a Dissolution Thereof.

This is an application made by Stanton M. Child, a creditor and stockholder of The Keepsafe Company, Inc., for the commencement of an action by and in behalf of the people against said The Keepsafe Company, Inc., for a dissolution thereof upon the ground that the said corporation has remained insolvent for at least one year, and has suspended its ordinary and lawful business for at least one year.

The petition is verified and copies of the same and the exhibits attached thereto, together with a notice that the same would be presented to the Attorney-General for official action by him on the 10th day of November, 1920, at 10:30 A. M., at the Attorney-General's office in the city of Albany, were served upon George O. Elmore, the president of said corporation, on the 28th day of October, 1920.

There was no appearance in opposition to such application, and the statement of facts set forth therein has not been denied or in any way controverted by or in behalf of said corporation.

The Keepsafe Company, Inc., was incorporated on or about the 2d day of January, 1913, pursuant to the provisions of the Stock Corporation Law for the purpose of acquiring patents, manufacturing of patented articles, including the manufacture and sale of a patented automatic alarm safe, and various other activities mentioned in the certificate of incorporation, with a capital stock of \$10,000.

The board of directors consisted of seven members and the names of the directors for the first year, as stated in the certificate, were as follows:

George P. Coolidge,	Harold P. Vose,
Harry J. Ahlheim,	Russell L. Engs,
Albert E. Heckman,	Charles E. Churchill,
George O. Elmore.	

On or about the 5th day of February, 1913, the following officers of the corporation were elected:

President, George O. Elmore.
 Vice-President, James L. McQuarrie.
 Treasurer, Russell L. Engs.
 Secretary, Harold P. Vose.

The said Russell L. Engs resigned his office in 1915 and one John H. Safford was elected to the position of treasurer, and thereafter the said Harold P. Vose also resigned his office and the said John H. Safford was elected as secretary, and thereafter held both offices until his death in February, 1920. There has been no change in the offices of president and vice-president.

The said corporation continued to and did carry on its business

until about the 19th day of October, 1915, when its capital stock was increased to \$100,000, consisting of 1,000 shares of the par value of \$100 each.

That from the date of its incorporation in the year 1912 and down to the present time the business of the said corporation has been unsuccessful and its earnings have been gradually declining and during the past five years its annual earnings have not equalled its annual expenditures, until at the present time it has no income from any source whatsoever and has not had for more than one year last past, and during the whole of said period no dividends have ever been declared nor have any of the stockholders realized any gain or profit from their investment in the stock of the said corporation.

That the said The Keepsafe Company, Inc., from in or about the month of December, 1917, down to the present date has transacted no business of any nature whatsoever, has made no sales, manufactured no goods, and maintained no office for the transaction of its business.

That the said corporation has suspended its ordinary and lawful business for more than a year last past, in fact for more than three years.

That the said corporation never issued any financial reports setting forth its financial condition; that the income of the said company in the year 1913 amounted to the sum of \$110.30, and that its expenses for the said year were \$2,105, leaving a deficit for the year of \$1,994.70; that the indebtedness of the said corporation at the end of the year 1917 amounted to approximately \$20,000, and that during said year the company received no net income whatsoever.

The said corporation is indebted to the petitioner for work, labor and services performed and material furnished to the amount and of the value of \$7,488.22, and at the end of the year 1917 was indebted to John H. Safford for cash advanced in the amount of \$10,878.66, and was and is indebted to other persons, firms and corporations for various amounts which have not been definitely stated.

In or about the year 1920 judgment was recovered by the people of the State of New York against the said corporation in the

Supreme Court for the sum of \$120 for unpaid taxes. The said judgment has remained wholly unpaid and unsatisfied.

That the said corporation owns no real property and has no cash, securities or assets of any kind, nature or description, except certain letters patent of the United States and certain merchandise and stock on hand, consisting of tools and equipment for making the patented devices, alarm safes and numerous parts used in the manufacture of said alarm safes.

That the said corporation has no means whatsoever of liquidating its outstanding indebtedness nor has it had the means to do so for more than one year last past; that the said corporation has become and is insolvent and unable to pay its debts and has remained insolvent for at least one year last past.

REPORT

The said The Keepsafe Company, Inc., is insolvent and has suspended its ordinary and lawful business for upward of a year last past, and is subject to a dissolution pursuant to the provisions of article VI of the General Corporation Law. I do, therefore, recommend that an action be brought by the people against the said corporation for a dissolution thereof, and that Aron & Wise, with offices at 50 Pine street, New York city, be designated to commence and prosecute such action in the name of the Attorney-General upon the petitioner executing and filing in this office a bond to be approved by the Attorney-General, and also upon the petitioner and the designated attorneys executing and filing the assent appended to such bond as directed by an order of the Attorney-General.

Dated December 14, 1920.

GEORGE A. FISHER,

Second Deputy Attorney-General.

Approved December 14, 1920.

CHARLES D. NEWTON,

Attorney-General.

By J. L. CHENEY,

First Deputy.

BEFORE THE ATTORNEY-GENERAL

In the Matter of the Application of JOHN DAVID for the commencement of an action for the dissolution of DAVID & DAVID, INC.

This is an application for the commencement of an action by the people against David & David, Inc., for a dissolution of such corporation upon the ground that it has suspended its ordinary and lawful business for at least one year. The petitioner appeared by Morris, Plante & Saxe, his attorneys. The respondent did not appear except by stipulation as hereinafter stated.

FACTS

In 1903 the petitioner with one Samuel David formed a copartnership under the firm name and style of David & David as haberdashers at No. 131 West 42nd street, and a large and lucrative business was built up under such firm. The copartnership was dissolved in 1910, and one Milton Weber was taken in by the petitioner and a corporation was formed under the corporate name of Weber & David. About six months thereafter the said Weber withdrew and the corporate name was changed to John David, Inc., and since that time it has continued in business and is still in existence. After the withdrawal of Mr. Weber the business of the corporation was continued by the petitioner, John David, and the said Samuel David, who had together, as aforesaid, composed the firm of David & David.

In 1913 the said Samuel David disposed of his interests and holdings in the said corporation, John David, Inc., to the petitioner. Throughout the period aforesaid, and, up to the present time, the partnership name of David & David had become quite generally known, and the present corporation of John David, Inc., is often referred to as David & David.

In or about 1917, the said Samuel David, and his son, Al. David, formed a new partnership, called David & David, and established a store for men's haberdashery in West 42nd street, New York City, about one block from the location of the original David & David store. A few months thereafter the said Samuel David died, and his son, the said Al. David continued the business under the name of David & David. About six months later

this business fell into financial difficulties, and sold its stock of merchandise, and its fixtures, to Messrs. Minz & Gutterman, a firm which was conducting two or three haberdashery stores under various assumed trade names. These purchasers thereupon on January 24, 1918 caused a corporation to be organized under the laws of the State of New York, with the corporate name "David & David, Inc."

The certificate of incorporation was made and signed by Henry Hymes, Frank Segal and Sidney R. Lash, and was drawn by one Jay A. Gilman, as the attorney for the incorporators.

Such corporation, David & David, Inc., organized as aforesaid in 1918, has never functioned as a corporation, and on April 5, 1920, an affidavit made by Louis Gutterman, Treasurer, was filed with the State Tax Department, in which it is in substance stated that such corporation disposed of all of its assets not later than January, 1918; that "its charter had been abandoned and the corporation did not contemplate resuming business under its charter."

On April 5, 1920, said Louis Gutterman, as treasurer of the corporation, filed a report with the State Tax Commission, stating that no capital stock thereof had been issued; and "that the corporation is dormant and has not done any business since its corporation."

The petitioner, with members of his family, to wit, Vera Beatrice David and Vera Hendricks David, attempted to organize a new corporation under the corporate name of David & David, Inc., and forwarded a certificate of incorporation to the Secretary of State, together with the necessary fees, etc., but on June 23, 1920, the said proposed certificate and money so forwarded were returned to the petitioner by the Secretary of State with the following statement:

"The statute absolutely prohibits the duplication of corporate names and the mere fact that an affidavit has been filed with the State Tax Department indicating that David & David, Inc., the certificate of incorporation of which was filed here January 21, 1918, has disposed of its assets and discontinued business, does not warrant the acceptance of another certificate of incorporation under the same name."

The petitioner and his proposed co-incorporators are unable to organize a new incorporation under the name of David & David, Inc., as long as the old defunct corporation by the same name remains undissolved.

The old corporation of David & David, Inc., by Abraham Minz, its President, and Louis Gutterman, its Treasurer, has entered into a stipulation with the petitioner withdrawing all opposition to this application; designating Jay A. Gilman, an attorney-at-law, of No. 276 5th ave., New York City, as the corporation's attorney, upon whom summons and complaint can be served, and authorizing the said Gilman to appear formally in an action to be brought to dissolve such corporation, if one is brought, and to consent to a decree being entered therein dissolving such corporation and terminating its corporate existence without further notice to said corporation "upon condition that said David & David, Inc., Louis Gutterman and all other officers, stockholders and directors be held free and harmless from any further action or proceeding instituted or initiated by or through the petitioner herein, either directly or indirectly."

REPORT

The petitioner has clearly shown that the company known as David & David, Inc., incorporated on January 24, 1918, has never exercised its corporate powers to any great extent, if any, since its incorporation, and that it has suspended its ordinary and lawful business for at least one year, and has rendered itself liable to an action for dissolution under the provisions of Article VI of the General Corporation Law, and the petitioner, desiring to organize a new corporation under the name of David & David, Inc., but is prevented from doing so on account of the similarity of names of the old defunct corporation and that of the proposed new corporation, has sufficient interest in this application to authorize him to institute this application, and as he has offered to give the necessary security to protect the State against all costs and damages which may arise out of the commencement of the action, if any, I do hereby recommend that an action be brought

by and on behalf of the people in the name of the Attorney-General, and that Messrs. Morris, Plante & Saxe of 27 Pine St., New York City, be designated to commence and prosecute such action upon the petitioner executing and filing in this department a bond in such sum as the Attorney-General may direct to be approved by him and also upon the petitioner and such designated attorneys executing and filing in this office the assent to the stipulation appended to such bond.

Dated, September 15, 1920.

GEORGE A. FISHER,
Second Deputy.

Approved, September 17, 1920.

CHARLES D. NEWTON,
Attorney-General.

BEFORE THE ATTORNEY-GENERAL

In the Matter of the Application of JULIUS H. COHN for the Commencement of an Action against THE GOTHAM COMPANY for Dissolution thereof.

A petition made by Julius H. Cohn asks for the commencement of an action in the name of the people for a dissolution of The Gotham Company, a corporation, pursuant to the provisions of article VI of the General Corporation Law, upon the ground that such corporation has suspended its ordinary and lawful business for at least one year, and has failed for several years to file any reports, or, pay any tax to the State of New York, as required by law.

The petition is verified and the allegations thereof have not been denied or controverted in any way by the officers or any members of the corporation.

The petition and notice of a hearing before the Attorney-General was duly served upon Henry C. Bryan, one of the original incorporators and directors of The Gotham Company, more than eight days before the return day mentioned in such notice, but

no appearance was made by said Bryan or any other member of such corporation upon the return day mentioned therein.

The corporation was formed in April, 1894, for the purpose of constructing and selling patented articles and to patent and construct such articles as the company might deem necessary for the purposes of its business, under the corporate name of the "The Gotham Company" by Jerome P. Gorin, Steven Wallis and Henry C. Bryan, who were also named as directors for the first year.

In the year 1911, the corporation suspended its ordinary and lawful business and since that time it has not filed any reports or paid any tax to the State of New York.

None of its officers except the said Bryan can be found, and he is unable to locate any of the officers or members, and says he ceased to be a member of such company a long time ago.

The petitioner is the President and principal stockholder in the Gotham Garter and Novelty Co., a domestic corporation formed in December, 1905, and such last named corporation is desirous of changing its corporate name by omitting the words "Garter & Novelty" as it has ceased the manufacture of such articles and to adopt the name of "The Gotham Company" or "Gotham Corporation" or "Gotham Company, Inc." but has been informed by the Secretary of State that there is already an incorporated company by the name of "The Gotham Company," and the petitioner is unable to change its corporate name by assuming either of said names on account of the similarity of such names to the defunct organization of "The Gotham Company."

It is evident that The Gotham Company ceased to function as a corporation in or about the year 1911, and has suspended all of its lawful and ordinary business for a period of at least one year, in fact for about the last nine years, and has rendered itself liable to dissolution under the provisions of Article VI of the General Corporation Law, and I therefore recommend that an action be commenced by and in behalf of the people against the said, The Gotham Company, for a dissolution thereof, and that Henry, Meyers & Manne of 277 Broadway, New York City be designated to commence and prosecute such action in the name of the Attorney-General, upon the petitioner executing and filing

in the office of the Attorney-General a bond, to save and protect the State against all costs and expenses growing out of such action, and upon the petitioner and his designated Attorneys executing and filing in this office the assent to the terms and conditions appended to such bond.

Dated, October 22, 1920.

GEORGE A. FISHER,
Second Deputy Attorney-General.

Approved:

CHARLES D. NEWTON,
Attorney-General.

By J. L. CHENEY, *First Deputy.*

BEFORE THE ATTORNEY-GENERAL.

In the Matter of the Application of SANITARY PRODUCTS CORPORATION for the Commencement of an Action for the Dissolution of NEW YORK SANITARY PRODUCTS COMPANY.

This is an application made by the Sanitary Products Corporation for the commencement of an action by and on behalf of the People against the New York Sanitary Products Company to dissolve said Corporation upon the ground that it has suspended its ordinary and lawful business for at least one year.

APPEARANCES.

Wise, Whitney & Parker, Attorneys for Petitioner.

No appearances by the respondent.

FACTS.

The New York Sanitary Products Company was duly organized under the Business Corporation Law of the State of New York as a domestic corporation on the 29th day of March 1895.

The incorporators and directors for the first year, with the addresses given in the certificate were as follows:

Clarence D. Kugler, 631 Vine St., Philadelphia, Pa.

William W. Gooch, 15 Wall St., New York, N. Y.

Lawrence W. Ahrens, 85 Liberty St., New York, N. Y.

Oliver S. Campbell, 32 Liberty St., New York, N. Y.

Noel Gale, 32 Liberty St., New York, N. Y.

The corporation was formed as a subsidiary of the Sanitary Utilization Company, a West Virginia Corporation, in which Clarence D. Kugler, the chief incorporator of the New York Sanitary Products Company, was interested, and it is stated by Oliver S. Campbell, one of the incorporators of the last above mentioned corporation, that he believes that its entire stock belonged to the Sanitary Utilization Company, and it appears that the charter of such West Virginia Corporation was surrendered many years ago.

Of the incorporators of the New York Sanitary Products Company, both Mr. Kugler and Mr. Gooch have been dead a number of years; Mr. Gale is now a resident of Bermuda, and the whereabouts of Mr. Ahrens are unknown, and the only survivor of such incorporators who can be reached, and upon whom service of a notice of this application could be made is Mr. Campbell, and he signed an admission of the due and timely service of a notice of this application returnable before the Attorney-General on the 23rd day of July, 1920, at 10:30 o'clock in the forenoon, at the Attorney-General's Office in the City of Albany, but did not appear upon such return day.

The New York Sanitary Products Company have not maintained an office within the State of New York, so far as anybody has been able to discover, within the last ten years, and aside from the incorporation of such company there is no indication that it ever did any business within the State; that no papers other than the certificate of incorporation and of payment of capital stock are on file in the New York County Clerk's office. Inquiry of the Commissioners of Taxes and Assessments of New York City and at the office of the Comptroller of the State of New York show that the New York Company has never paid any local taxes or made a capital stock or franchise tax report or payment other than for organization.

The petitioner is a foreign corporation duly organized and incorporated under the Laws of the State of Maryland, and is desirous of obtaining a certificate under Section 15 of the Gen-

eral Corporation Law of the State of New York to permit it to do business within this State, but is unable to do so on account of the similarity of the names of the two corporations, and the petitioner, therefore, has sufficient interest in the dissolution of the New York Sanitary Products Company to institute this proceeding.

The said New York Sanitary Products Company has suspended its ordinary and lawful business for at least one year.

REPORT.

It is apparent from the proofs before me, none of which are denied or disputed, that the New York Sanitary Products Company is defunct, and has not done any business in a number of years, if it ever did any, and has suspended its ordinary and lawful business for at least one year, and is liable to dissolution pursuant to the provisions of Article VI of the General Corporation Law, in an action brought in the name of the People, and I have good reason to believe that an action can be maintained for that purpose, and as this action under the facts of this case can only be brought by the Attorney-General and the petitioner will be required to give a bond to protect the State from all costs and expenses which might or can be charged against it, I recommend that an action in the name of the People for dissolution of such Company be brought and that Messrs. Wise, Whitney & Parker of 15 William Street, New York City, be designated to commence and prosecute the same in the name of the Attorney-General upon the petitioner executing and filing in this Department a bond to be duly approved, and the petitioner and the above designated attorneys signing and executing the assent to the stipulation and terms appended to said bond.

Dated, July 29, 1920.

GEORGE A. FISHER,
Second Deputy.

Approved:

CHARLES D. NEWTON,
Attorney-General.

BEFORE THE ATTORNEY-GENERAL

In the Matter of the Application of MICHAEL J. McNAMARA to commence an action in the nature of quo warranto, against MILO A. TIFFT to test the title to the office of supervisor in the fourth ward of the City of Oswego.

Application made by the petitioner to oust and exclude the respondent from the office of Supervisor in the Fourth Ward of the City of Oswego.

APPEARANCES

John Tiernan, Attorney for Petitioner.

Francis D. Culkin, Attorney for Respondent.

J. R. Pidgeon, Attorney for City of Oswego.

William Callagher, Attorney for County of Oswego.

FACTS

At the general election held in November, 1917, the petitioner Michael J. McNamara, was elected to the office of Supervisor of the Fourth Ward of the City of Oswego in the County of Oswego, for a term of two years which commenced on the 1st day of January, 1918, and continued to serve to and including the 31st day of December, 1919.

At the general election in November, 1919, the said petitioner was renominated by the Democratic party as a candidate for re-election to the same office, and at such election the respondent, Milo J. Tift, was nominated by the Republican party for the same office and thus the petitioner and respondent were rival candidates at such election for the said office of Supervisor of the Fourth Ward in the City of Oswego for the term of two years from the 1st day of January, 1920.

Upon the canvass of the votes cast at such last election the following result was duly certified by the Common Council upon the office of Supervisor of the said Fourth Ward, to wit:

Milo A. Tift, received.....	605 votes
Michael J. McNamara, received.....	587 votes

Majority for Mr. Tift,.....	18 votes
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Thereafter and prior to the 1st day of January, 1920, the said Tift duly qualified for the office of Supervisor of said ward and entered upon the discharge of the duties thereof and is still acting in that capacity.

At the date of such election the said Tift was not the owner of any property, real or personal, within the City of Oswego assessed to him upon the last preceding assessment rolls of the city, nor was he the owner of any property assessed to him within such ward at the time of the hearing herein, so far as the proof discloses.

The petitioner's wife, Mary Emma Tift, was at the time of the election of her husband, the owner of an undivided one-fifth interest in certain premises situated within such city, which property was assessed upon the last preceding assessment roll of the city at the total valuation of \$850 to Mrs. Patrick Glynn, the mother of the said Mary E. Tift, and four other tenants in common with her. The said Mrs. Patrick Glynn died on or about the 1st day of May, 1919. The fair value of such property is about \$1500. The property had been assessed prior to the death of Mrs. Patrick Glynn, to her, and continued upon the assessment roll of said city in 1919, as assessed to her, and no attempt was made after her death to correct the assessment roll, as might have been done under section 234 of the Charter. It also appears that down to the death of Mrs. Patrick Glynn, she did not have any record title to such property and after her death and on the 17th day of June, 1919, a deed was executed by Ellen C. Donnelly and William P. Donnelly to the said Mary Emma Tift, and her brother and three sisters, of the premises in question, which deed was duly recorded in the Oswego County Clerk's office on the 5th day of July, 1919, in book 311 of deeds at page 555, and recites that it "is given to take the place of a conveyance heretofore made by Mary A. Donnelly as Executrix of the last will and Testament of Peter Lappin late of Oswego City, N. Y. deceased to Mary Glynn and Patrick Glynn dated April 1, 1879, which deed was not recorded and has since been lost or destroyed, and the parties of the first part are the only surviving heirs at law of the said Peter Lappin or the said Mary Donnelly both

deceased, and the parties of the second part are the heirs at law of the said Patrick and Mary Glynn deceased."

The said Mary Emma Tift, wife of the respondent, is also one of the heirs at law of Margaret Glynn, her grandmother, who died intestate on October 13, 1899, owning property located within such city and as such heir at law of said Margaret Glynn deceased, the said Mary Emma Tift is the owner of an undivided one-fifth of a one-sixth interest. This property was assessed at \$950 but is alleged to be fairly worth about \$2000. It does not clearly appear to whom this last piece of property was assessed but it does appear that neither the name of the respondent, nor his wife, was assessed personally for any property upon the last preceding assessment rolls of the city, but Mary Emma Tift contributed her share towards the payment of the taxes upon both pieces of property during the year 1919.

1-5 of the assessment of \$850 amounts to	\$170 00
1-30 of the assessment of \$950 amounts to	31 66
<hr/>	
Share of Mrs. Tift in the property at assessed valuation,	\$201 66
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1-5 of the alleged valuation of the first piece of property of \$1500, is,	\$300 00
1-30 of the alleged valuation of the second piece of property of \$2000 is,	66 66
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Share of Mrs. Tift in the property at the value thereof,	\$366 66
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It is alleged on the part of the respondent and not disputed by the petitioner, that there are no unpaid debts against either Mrs. Patrick Glynn or Margaret Glynn, which can affect or depreciate the title of the heirs at law in either of the properties above mentioned.

REPORT AND CONCLUSIONS

It is provided by section 5 of the City Charter of Oswego, as amended by chapter 263 of the Laws of 1897, in part as follows :

“ No person shall be eligible to be elected to or voted for, or appointed to the office of * * * supervisor, unless at the time of his nomination for or his appointment to such office he shall have been assessed upon the last preceding assessment rolls of the said city for real or personal property belonging to him in his own name and right in fee simple to the amount of at least two hundred and fifty dollars; or is the husband of a woman who is the owner of real or personal property belonging to her in her own name and right in fee simple to the amount of at least two hundred and fifty dollars, and for which she was assessed upon the last preceding assessment rolls of said city; * * * ”

The respondent does not meet the requirements of this statute, to render him eligible to be either elected to or hold the office of Supervisor. Conceding that the wife's interest is upwards of \$250 in value and is sufficient upon that basis, he cannot be rendered eligible, for she was not “ assessed in her own name.” Her name was not left off the assessment rolls through any negligence or omission of the assessors, as the assessments were made under section 234 of their charter as amended by chapter 263 of the Laws of 1897, between the first days of April and June. A notice is then to be published of the completion of the rolls and the place where they can be examined by any person interested, and on the first secular day of July the assessors are required to meet to review the assessments. The respondent and his wife, or either of them, could have appeared and asked that the assessment roll be corrected, but neither of them did appear or make any effort to have the assessment roll amended so as to include her name, and the deed to herself and brother and sisters was not executed until June 26th and not recorded until July 5, 1919, several days after completion of the assessment rolls, so no blame or negligence can attach to the assessors for the omission of Mrs. Tift's name. However, I should be inclined under the

authorities in *Jewell v. Mohr*, 136 N. Y. Sup. 273; *Worth v. Kansas*, 80 Misc. 552, and Carmody, Attorney-General, (report of 1914, page 116), to recommend a denial of this application notwithstanding the omission of Mrs. Tift's name from the assessment rolls, if it had been shown that she paid taxes upon at least \$250 worth of real or personal property. It was the clear intent of the Legislature that a supervisor or his wife should be the owner of and assessed for that amount of property to make him eligible to be voted for or to hold the office. The alleged value of the property does not meet the requirement of the statute and unless the assessment amounts to \$250 or more he cannot claim eligibility as the statute reads "*and for which she was assessed upon the last preceding assessment rolls of the city.*" Both ownership and assessment to the amount of \$250 seem to be prerequisite to eligibility. I take it that if she had been worth a million dollars and not assessed for at least \$250, it would not render her husband eligible on the strength of her property, to hold the office of Supervisor in the city of Oswego. Her holding of property according to the assessed valuation was considerably less than the required amount under the statute, and the assessed valuation must control instead of the personal estimates placed thereon by interested parties. It must be borne in mind that to render the husband eligible to hold office in the city of Oswego on the strength of his wife's property, two conditions must be met: 1st, Ownership in fee simple of property of the value of at least \$250 (assessed value), and, 2nd, Assessment upon the last preceding assessment roll of the city for the above mentioned amount. As she does not meet either requirement I do not feel that I can ignore the lack of both under the authorities hereinbefore cited.

Mr. Tift was nominated by his party and permitted to run without protest from the petitioner or anybody else, and he was elected by the people of his district by a substantial majority and the choice so made should not be lightly disregarded or the will of the people thwarted upon merely technical or trivial grounds. The Legislature has laid down certain rules of eligibility which

the respondent does not meet and I do not feel that I can recommend a denial of the petitioner's right to go into Court and test the respondent's title to the office.

If the petitioner had not been a candidate in opposition to the respondent, but made his application solely as a "hold-over" officer, it should be dismissed.

The People ex rel. Leet v. Sweeting, 2 Johns. Rep. 183.

The People v. Loomis, 8 Wend. 396.

Woodbury, Attorney-General, Report of 1915, pages 229-283.

But the petitioner was a candidate and as such received within eighteen votes as many as the petitioner, and if upon a trial it is established that the respondent was and is ineligible to hold the office of Supervisor, and that the votes cast for him were illegally cast, it raises the question whether the petitioner, the minority candidate was elected, and entitled to qualify and hold the office for the balance of the term, and so the petitioner stands in a different position from one seeking to recover an office who has no claim thereto except as a hold-over officer and the right of the petitioner to hold the office is one to be settled by the trial court and it is not necessary to pass upon that question in this report.

There is a broad discretion vested in the Attorney-General in the allowance and disallowance of actions in the nature of quo warranto, but if the discretion is to be exercised against permitting a man to have a day in court, even if his desire is actuated by personal ambition or political animus, it should be based upon some substantial doubt or public interest. His right should not be denied where the ground for the ouster is based upon the ineligibility of the incumbent, and the ineligibility is so plainly established as this case.

Notwithstanding my strong desire to recommend a denial of this application, I am forced into a contrary course and do hereby recommend that the application be granted and that the petitioner be allowed to bring an action in the name of the People upon his

relation to oust and exclude the respondent from the office of Supervisor of the fourth ward of the city of Oswego, upon the usual condition as to the designation of an attorney and the giving of a bond to protect and save the people harmless from all costs and damages.

Dated, March 11, 1920.

GEORGE A. FISHER,
Second Deputy, Attorney-General.

Approved:

CHARLES D. NEWTON,
Attorney-General.

BEFORE THE ATTORNEY-GENERAL

In the Matter of the Application of JOHN C. HARRIS for the commencement of an action in the name of the People of the State of New York for a dissolution of the Finance Company of New York.

Application for the commencement of an action for the dissolution of a Corporation duly incorporated under the laws of the State of New York, under the corporate name of Finance Company of New York.

APPEARANCES

C. E. Sutherland, attorney for Petitioner.

No appearance in behalf of the Corporation.

FACTS

The Finance Company of New York was duly incorporated under the laws of the State of New York on or about the 8th day of May, 1889. The subscribers to the certificate of incorporation were Joseph T. Baldwin, Thomas S. Johnson, William J. Sherwood and Albert Lupton of the City of Brooklyn, and William D. Barron of the City of New York. (No street numbers given.) The directors first elected were Joseph T. Baldwin, William J. Sherwood, B. O. Wainwright, W. D. Barren and A. Lupton. (No street addresses given.)

The said Finance Company of New York did business for a short time after its incorporation, but ceased all operations as a corporation some years ago and has suspended all lawful and ordinary business for at least a year, in fact for several years past.

The petitioner herein has been trading and doing business for the last three years under the name and style of the Finance Company of New York, and is now desirous of incorporating his business under such name, but is advised by the Secretary of State that an incorporation under such name cannot be perfected on account of the similarity of the name which he desires to use with that of the aforesaid Corporation.

The petitioner has caused diligent search to be made for each and all of the subscribers and directors hereinbefore named but has been unable to find any of such names in any city or telephone directory within the city of New York. The Notary Public who took the acknowledgments upon the original certificate remembers some of the parties but can give no information as to their present whereabouts, if any of them be now living. A son of Joseph T. Baldwin, one of the subscribers to the original certificate and one of the original directors was interviewed and could give no information about the company and claims that no stock of the company was passed among the papers of the said Joseph T. Baldwin, now deceased; and no representative of any of the other incorporators or directors have been found or located, and no person can be found upon whom a notice of the application to the attorney-general to commence the action can be served.

REPORT

It has been sufficiently well established that the Finance Company of New York became defunct and disorganized something like twenty-five years ago, and has ceased to operate or function as a corporate entity for several years, and has certainly suspended all of its ordinary and lawful business for at least a year, and that an action can be maintained for a dissolution thereof pursuant to the provisions of Article VI of the General Corporation Law.

The petitioner is unable to incorporate a new company under

the name of the Finance Company of New York, as long as the present corporation remains undissolved, on account of the similarity of names, but is desirous of doing so, and therefore has sufficient interest to apply for the commencement of this action and has indicated his willingness to give a bond to protect the State against any cost or expense growing out of the prosecution of the action.

It is provided by section 102 of the General Corporation Law that "if there be no person in existence upon whom service of the summons can be made under the provisions of section 431 of the Code of Civil Procedure, service of the summons in such action may be made in such manner as the court upon application by petition may direct," and with this safeguard thrown about the corporations interests I have waived the service of a notice of this application, as the petitioner is unable to secure personal service upon any person having any interest in the corporation.

I do therefore recommend that an action be commenced by and behalf of the people, in the name of the attorney-general as attorney for the people, upon the said petitioner executing and delivering to the attorney-general the bond required by our rules and also upon the execution by the petitioner and the designated attorney of the stipulation appended thereto as provided in and by an order attached hereto.

Dated, July 6, 1920.

GEORGE A. FISHER,
Second Deputy Attorney-General.

Approved:

CHARLES D. NEWTON,
Attorney-General.

BEFORE THE ATTORNEY-GENERAL

In the Matter of the Application of JOHN C. HARRIS, for the commencement of an action in the name of the People of the State of New York, for a dissolution of the Finance Company of New York.

On reading and filing the report of George A. Fisher, Second Deputy Attorney-General, under date of July 6, 1920, in the

above entitled proceeding, which has been duly approved by me, I do hereby

ORDER AND DIRECT, That an action be brought in the name of the People against the Finance Company of New York for a dissolution thereof, as provided by Article VI of the General Corporation Law, upon the ground that such corporation has suspended all of its ordinary and lawful business for at least one year, and I do hereby designate C. E. Sutherland, of 15 Park Row, New York, to commence and prosecute such action and make application for direction for service of summons as provided by section 102 of the General Corporation Law, if necessary, in my name as Attorney-General, but without compensation from the State of New York, upon the petitioner executing and filing with me a bond in the penal sum of two hundred and fifty dollars, with surety to be approved by me, to protect the State against any costs or expenses arising out of the prosecution of such action, and upon the petitioner and designated attorney executing and filing in this department their assent to the terms and stipulation appended to such bond.

Dated, July 7, 1920.

CHARLES D. NEWTON,
Attorney-General.

BEFORE THE ATTORNEY-GENERAL

In the Matter of the Application of PATRICK J. SULLIVAN, for the commencement of an action in the nature of quo warranto, against WILLIAM CUNNINGHAM and MICHAEL J. CULKIN, to oust and exclude them from the offices of Directors of the Firemen's Mutual Benevolent Association of the City of New York.

The notice of presentation of this application was made returnable before the Attorney-General on the 27th day of January, 1920, at 10 A. M.

APPEARANCES

Francis E. Carberry, Attorney for Petitioner.
Joseph A. McNamara, Attorney for Respondents.

FACTS

The Firemen's Mutual Benevolent Association of the city of New York is a domestic Membership Corporation, duly organized under the Laws of the State of New York, and has been such corporation since the 20th day of February, 1893.

The officers of the association, as provided by its constitution and by-laws, consist of a president, two vice-presidents, secretary, treasurer, four auditors and four directors, all to hold office for one year except the directors. The directors, after the election of the first four, who were to serve for one, two, three and four years, respectively, were to serve for terms of four years each, one to be elected each year for a four-year term in the month of June, and installed at the first regular meeting in the following month of July.

The membership of the association is composed exclusively of retired and active members of the Fire Department of the city of New York, and the dues are \$12 per annum, payable monthly in advance. The membership of the association is at present upwards of twenty-three hundred.

The duties of the directors are prescribed by section 10 of Article VII of the constitution, as follows:

"Section 10. It shall be the duty of the Board of Directors to keep a general supervision over the financial affairs of the Association; it will require the signatures of three directors to draw money from savings banks. They shall perform such other duties as may be directed also to have supervision over all property of the Association."

and those of treasurer by section 9 of Article VII, as follows:

"Section 9. It shall be the duty of the treasurer to receive from the Financial Secretary all moneys paid to him from every source, and to give receipt for same, and to at once deposit same in bank designated. His books shall be open for inspection at all times by the Board of Directors. He shall also perform such other duties as the Association may direct."

It is provided by section 9 of Article IV for the removal of officers, as follows:

"Section 9. Officers for improper conduct or neglect shall be subject to impeachment and trial at the written request of twenty-five (25) members in good standing, and if the charges are proven, then the officers so impeached shall be removed from office, provided that such officers be notified at least five (5) days in advance, in order to give them an opportunity of defending themselves."

Under the title "The Arbitration Committee" in section 4 of Article VIII, it is provided as follows:

"Section 4. The Arbitration Committee shall consist of three members appointed by the President. It shall be the duty of the Arbitration Committee to hear and determine all matters in dispute pertaining to and within the Association, and after hearing all the evidence thereon, shall render their verdict, which shall be final. The Arbitration Committee may meet on the last Friday of each month, at which time all grievances may be adjusted."

The petitioner was elected to the office of director of said association in 1900, and was re-elected continuously thereafter upon the expiration of each of his terms. His last election occurred in June, 1916, and his term commenced in July, of that year and would expire in July, 1920, if it had not been interrupted as hereinafter shown.

In recent years there has grown up in the association some dissensions between two groups of the members known as the "retired" and "active" groups. Out of such differences there has sprung up a rivalry for the offices and control and management of the association, and at the annual election in June, 1919, the group known as the "active" members were successful and all the officers of the association, except those who had been elected to the directorate and whose terms did not expire that year, were elected from the "active" group, but the petitioner whose term would not expire until July, 1920, continued to hold his position until on or about the 4th day of October, 1919.

Some of the funds of such association, to the amount of about \$24,000 had been, prior to the change in the personnel of the officers in July, 1919, invested in government bonds and such bonds were under the control of the old board of directors as it existed before the change in 1919, and it is alleged by the respondents and not seriously disputed by the petitioner, that such bonds still remain in the actual possession, or at least under the control of the petitioner.

It was stated in the charges against the petitioner but not proven upon the hearing that on or about the 8th day of August, 1919, at a meeting of the association, the petitioner was directed to turn over all property held by him belonging to such association, to the treasurer thereof, but the petitioner failed and refused to do so, alleging it to be the duty of the board of directors to have charge of, manage and control the property of the association. Much discussion and bickering followed such demand and on September 9th charges were formulated against the petitioner, signed by John W. Eagan, recording secretary, and Theodore H. Martins, president, alleging misconduct on the part of the said petitioner, disobedience of orders of the association, defiance of its mandates, and directing him to appear before an arbitration committee on the 17th day of September "and submit his defense."

The board of arbitration appointed by the president, who stood in opposition to the petitioner in the attitude he had taken in reference to the control of such liberty bonds, consisted of Augustine A. Donavan, a vice-president, William J. Gleason, an associate director, and Frank Costello, all of whom it is claimed belonged to the opposite faction within the association to that to which the petitioner belonged.

The committee was appointed under the provisions of section 4, article VIII of the constitution of the association.

On the return hour of the notice the petitioner appeared in person and with Mr. Carberry, his attorney. The committee consisted of laymen unversed in legal procedure and assumed from the beginning that it was up to the petitioner to prove his innocence of the alleged charges, which were unverified, but Mr. Carberry, for his client, insisted upon the establishment of some orderly procedure and refused upon behalf of the petitioner to

allow him to make any statement other than to interpose a plea of not guilty, until the charges had been proved. The committee was without counsel. Mr. Carberry and the petitioner were accompanied by a stenographer who took notes of all the proceedings. Besides the arbitration committee, there were present at the meeting, the president, Mr. Martin, John W. Eagan, recording secretary, Charles W. Devney, treasurer, Martin J. Murphy, financial secretary, and Lawrence Ryan, a member of the association, all of whom appeared to stand in hostility to the petitioner. The proceeding opened, continued, and resulted in a long-drawn out wrangle over the constitution of the association, the method of procedure, the right of Mr. Sullivan to be represented by counsel, the interposition by the petitioner of an answer to the charges, and various other matters, but no evidence was taken and the committee refused to receive the written answer of the petitioner, and the whole proceeding was abortive of any tangible results so far as the substantiation of the charges against the petitioner were concerned. The arbitration committee was appointed by the president, who was adverse to the petitioner in the internal affairs of the association. They were selected from the faction opposed to the petitioner, and they were surrounded, not only in the preliminaries which led up to the hearing, but during the hearing, by an atmosphere of antagonism to the petitioner. No matter how pure and honest may have been their motives, it was impossible for them to arise above the prejudices and ill feeling which had grown up against the petitioner, and render a fair and impartial decision, uninfluenced by such surroundings.

A report was made on the 4th day of October, 1919, by the arbitration committee, that it had found the petitioner guilty of the alleged charges, and he was expelled from the board of directors.

At or about the same time Edward J. Owens, a codirector with the petitioner, resigned his position, and, either at that meeting or immediately subsequent thereto, the president appointed the respondents, William Cunningham and Michael J. Culkin to fill the vacancies so made by the removal of Mr. Sullivan and the resignation of Mr. Owens. Both Mr. Cunningham and Mr. Culkin accepted the positions and entered upon the duties of the respective offices and are still acting.

This proceeding was originally commenced against Mr. Cunningham as the petitioner had been informed that he (Mr. Cunningham), had been appointed to fill the position of director from which he had been removed. Upon the hearing before me it was stipulated by Mr. McNamara, the attorney representing both Mr. Cunningham and Mr. Culkin, that this proceeding might proceed as if both had been named as respondents therein, and he consented to continue the proceeding as if both of such men had been named originally as respondents.

An action was subsequently commenced in the Supreme Court by the said Patrick J. Sullivan against the Firemen's Mutual Benevolent Association and the officers thereof individually and officially to obtain a judgment restraining them from doing certain things in the conduct of the association which are alleged to be violative of its constitution and illegal, and a temporary injunction has been granted restraining such parties both officially and individually from doing certain acts therein stated during the pendency of the action. While the determination of such action will undoubtedly settle many questions relating to the practices of the association and the conduct of its officers, it will not determine the title of the petitioner to the office of director.

REPORT AND CONCLUSIONS

The petitioner was one of the directors of the Firemen's Mutual Benevolent Association in good standing down to the time he was removed on the 4th day of October, 1919, and as such he had co-ordinate powers with his associate codirectors in the supervision of the financial affairs and property of the association, and equal powers with them in holding and safeguarding such property. He was not charged with stealing the bonds or converting them to his own use, but the principal ground urged against him, as I gather it from the proof, was the fact that he had the custody of such bonds, and refused to hand them over to the treasurer. There is nothing in section 9 of article VII of the constitution of the association relating to the duties of the treasurer which makes him the depository of the bonds and the only authority I can find in their constitution for placing the bonds in the hands of the treasurer is in the last sentence of section 9 which reads: "He shall also perform such other duties as the association may

direct." There was no proof that any direct action had been taken by the association directing the petitioner to turn over the bonds to the treasurer, but the president testifies that he directed him to do so both orally and in writing, and the petitioner had the right to question the authority of the president to direct him to turn over to even a bonded officer of the association a large amount of property which, under the constitution, is under the management and supervision of the board of directors. The powers of the president and of the board of directors are conferred upon them respectively by their constitution, and neither has the right to control the other in his official actions in opposition to the mandates of the constitution. It should be borne in mind that the petitioner was the chairman of the board of directors and while he had no right to hold the exclusive control and supervision of bonds as against his codirectors, he had the right to hold them from the custody of the treasurer in the absence of any affirmative action by the association, and if I am right in this position, the charges against him were insufficient to justify his removal.

And again, if I read section 9 of article IV of their constitution aright, the president had no power of removal of the petitioner from the office of director, even upon the recommendation of the board of arbitration. If he was guilty of improper conduct in office he was subject to impeachment and removal as provided in the last above-mentioned section. If it were not for the specific provision of this section relating to the removal of officers for improper conduct, the provisions of section 4 of article VIII might be construed to give an arbitration committee authority to hear charges of improper conduct of officers, but upon a careful consideration of the provisions of section 9, article IV, I am forced to the conclusion that such board of arbitration had no right to entertain the charges preferred against the petitioner or to make final determination as to his removal, nor had the president power to attempt to remove him in pursuance of the report of such committee.

Even if the action of the arbitration committee, followed as it was by the removal of the petitioner, was the correct practice under the constitution, the proceedings at the hearing before such committee do not commend themselves to me as such a fair and impartial trial as he was entitled to before being deprived of an

office to which he had been elected by the association. The committee was not selected from both groups of membership or even one member taken from the faction to which the petitioner belonged, and the attitude of the various officers and members who participated in the hearing was such as led to the irresistible conclusion that the petitioner was not accorded a fair, unbiased and unprejudiced trial, to which he was entitled. I do not intend by this report to cast any reflection upon the honesty, good faith or fair intentions of the committee. We are all at times unconsciously influenced and biased by our surroundings, and sometimes swerved from the right course by our prejudices, associates and environments, coupled frequently with personal inclinations, without the least intention of doing anybody an injustice.

The office of director, I assume, is without salary, fees or emoluments, and there is only about four months remaining of the term held by the petitioner, but he is claiming the right to go before a court of justice and vindicate his action, and objects to retiring under a cloud. He offers to give a bond to protect the State against any possible cost or expense and his attorney claims that a speedy trial can be secured and a determination reached before the expiration of the term. There might have been and probably was an honest difference of opinion as to whether Mr. Sullivan as chairman of the board of directors, or the treasurer, was entitled to the custody of the bonds, and if the respondents were right, it did not justify the drastic remedy of his removal.

This application arises out of dissensions which have arisen in the association, and considering the short remnant of the petitioner's term, and if the proceedings relating to the removal of the petitioner could be justified upon any theory, I should be inclined to deny it and leave the parties to adjust their differences within the organization as best they could. Under the circumstances, as they appear to me, I feel that I would not be doing the petitioner justice if I should deny him the opportunity of vindicating his position in court.

There is a sufficient number of the public interested in this matter to justify the allowance of the action and I do, therefore, recommend that the petitioner be allowed to commence an action in the name of the people upon the relation of himself, either against William Cunningham or Michael J. Culkin, or both, as he

may be advised, to oust and exclude the one that has usurped and intruded into the position held by the petitioner prior to October 4, 1919, upon the usual conditions as to designation of attorney and the giving of a bond.

Dated March 1, 1920.

GEORGE D. FISHER,

Second Deputy Attorney-General.

Approved:

CHARLES D. NEWTON,

Attorney-General.

BEFORE THE ATTORNEY-GENERAL

In the Matter of the Application of CHARLES S. DIAMOND to Commence an Action for the Dissolution of the PERFECTION CANDY COMPANY.

This application is made pursuant to the provisions of Article VI of the General Corporation Law, to procure a dissolution of the above named corporation upon the ground that it has suspended its ordinary business for more than one year, and has ceased all operations as such corporation.

APPEARANCES

John B. Johnson, Attorney for Petitioner.

No appearance by the Corporation.

FACTS

The Perfection Candy Company is a domestic corporation and was organized and incorporated under the laws of the State of New York as a business corporation on or about the 10th day of April, 1909, for the purposes of conducting a general candy business.

The Capital stock of the corporation was fixed at \$10,000 and its principal place of business was stated to be in the Borough of Manhattan, with five directors named in the certificate, and the subscribers to the stock named in such certificate were Gabriel Wetherhorn of 146 Broadway, New York City, Christos Stampul of 202 Main St., Paterson, N. J., and Peter Langis of 87 Cortland St., New York City.

The petitioner, by his Attorney herein, has made diligent search

for the persons named as directors and incorporators of said corporation and has addressed letters to each one thereof at the address named in the certificate and enclosed stamped envelopes for answer but no reply has been received from any of them and all letters were returned unopened to the writer except the one addressed to Christos Stampul which has been opened and returned with a memorandum in red ink endorsed thereon as follows:

“The above concern has been out of business, long time ago, and Mr. Stampul is in Greece long time ago also.

Paradice Conf. Co.”

The petitioner is unable to find that the said Perfection Candy Company ever functioned as a corporation, and that if it ever did, it absolutely suspended all kinds of business of any kind for upwards of one year and that it has not made any reports or complied with any of the corporation laws of the State in the last ten years.

The petitioner is one of the directors and stockholders in the Specialty Candy Company, a domestic corporation, which is about to consolidate with the Perfection Cone Company, also a domestic corporation, under the corporate name of the “Perfection Cone and Candy Company,” but is unable to so incorporate under such last mentioned name on account of the similarity of the name which the new company desires to use and the said Perfection Candy Company, and has been informed by the Secretary of State that the name of “Perfection Cone and Candy Company” is not available to the new company as the said corporation Perfection Candy Company has never been dissolved.

REPORT

It is apparent that the company incorporated under the name of “Perfection Candy Company” has suspended its ordinary and lawful business for at least a year, and for much more than one year, and is subject to dissolution as provided by section 101 of the General Corporation Law, and that it has forfeited its corporate rights, privileges and franchises on account of its disuse thereof for several years.

As a stockholder and director in the Specialty Candy Company which is desirous of consolidating with another corporation under the corporate name of "Perfection Cone & Candy Company," the petitioner has an interest in securing a dissolution of the defunct Perfection Candy Company. As the name is so similar to the name which the Consolidated Company desires to use, the new company is denied incorporation under the name of "Perfection Cone & Candy Company" as long as such Perfection Candy Company remains in existence.

It is provided by section 102 of the General Corporation Law that if there be no person in existence upon whom service of the summons can be made in a case of this kind, service may be made in such manner as the court upon application by petition may direct.

I do therefore recommend that an action be commenced in the name of the people for a dissolution of the Perfection Candy Company upon the usual terms as to designation of Attorney to commence and prosecute the same, and the giving of a bond by the petitioner to save and protect the State from all costs and expenses which may be awarded against it, if any.

Dated, March 16, 1920.

GEORGE A. FISHER,
Second Deputy Attorney-General.

Approved:

CHARLES D. NEWTON,
Attorney-General.

BEFORE THE ATTORNEY-GENERAL.

In the Matter of the Application of FRANK SCOTT to Commence an Action in the Nature of Quo Warranto Against NEWTON L. DICKENSON to try the Title to the Office of TOWN SUPERINTENDENT OF HIGHWAYS IN THE TOWN OF HANOVER, CHAUTAUGUA COUNTY, NEW YORK.

This application was made returnable before the Attorney-General at his office in the City of Albany on the 20th day of January, 1920, and adjourned by consent of parties until the 2nd day of March, 1920.

APPEARANCES

Thomas H. Larkin, Dunkirk, N. Y., Attorney for Petitioner.
William S. Stearns, Fredonia, N. Y., Attorney for Respondent.

FACTS

The town of Hanover in the county of Chautauqua is divided into seven election districts and there is elected a county committeeman in each district. By the rules of the Republican County Committee of such county the seven committeemen so chosen in the several election districts of such town as members of the Republican County Committee become by virtue of such election the town committee of such town.

The Republican County Committee of said county of Chautauqua, some time prior to the primaries held in said county, in the year 1919, had promulgated certain rules relating to the conduct to town caucuses within such county and such rules so far as they apply to the issue raised upon this application, provide as follows: That the members of the county committee elected from the several election districts in a town shall be the town committee of such town, the caucuses to be held prior to September 8th; that no person shall participate in a Republican town caucus who is enrolled with any other party; that notices of a town caucus shall be in writing signed by a majority of the town committee stating the purposes of such caucus, the time and places at which the caucus will be held and the hours which the polls will be open for voting, such notices to be posted in at least three conspicuous public places in the district, not less than five nor more than ten days previous to the date of the caucus, and published in a newspaper of general circulation at least once, not less than five days previous to the caucus; that all voting shall be by ballot, a plurality of votes to nominate; that town caucuses can be held by election districts or in one place for the town as the town committee shall designate; that certificates shall be made by the chairman and clerk of each caucus district of the votes cast therein, and the chairmen of the various election districts shall meet at the town clerk's office at 10 o'clock A. M. on the first working day after the caucus and proceed to canvass the vote of the town, make out and file a certificate of the result with the

town clerk and board of elections, and the names of the persons so certified as receiving a plurality of votes to be placed upon the election ballot as the town candidates of the Republican party for the ensuing election.

In October, 1915, at a town caucus held in said town of Hanover a resolution was adopted to the effect "that no person should thereafter be permitted to take part in any Republican caucus held in the town who was not an affiliated Republican voter as shown on the enrollment books of the town," and since that time all town caucuses have been conducted upon that plan, and the rule was acquiesced in. It was generally understood by the voters of the town that in order for a person to participate in a town caucus he must be an enrolled Republican voter of the town.

On July 30, 1919, the members of the Republican County Committee within the town of Hanover (who were by virtue of their respective offices also Republican Town Committeemen of such town), held a meeting and adopted certain rules for the conduct of their ensuing town caucus as follows: The town primaries were to be held on Sept. 2, 1919, from 12 o'clock noon to 6 o'clock P. M., to be held in four places, 1st, 2nd, 3rd and 4th districts in Silver Creek, 5th in Forrestville, 6th in Smiths Mills and 7th in Irving, N. Y.; that a chairman, secretary and two tellers be elected at the opening of the primary in each place and the same to act as officers thereof; that the ballot submitted be turned over to the secretary and adopted as the primary ballot; that no person can vote or participate in the primaries except enrolled Republicans as shown by the enrollment book of 1919, specifying the particular places where the caucuses would be held; that petitions for nominations be filed not later than 5 o'clock P. M., August 5, 1919; that notices of the primaries be posted and published in a paper not later than 5 days before September 2, 1919; that "the number of signers on petitions be as follows: Supervisor, 50 names; Superintendent of Highways, 50; Town Clerk, 25; Justices of the Peace, 25; Collector, 25; Assessors, 25; all others, 10 names."

On the 22nd day of August, 1919, the said Hanover Republican Town Committee duly called a caucus or primary of the Republican voters of such town to be held at the several election

districts in the town at the various places hereinbefore stated, such caucuses to be held on September 2, 1919, and caused notices thereof to be duly published and posted as required by their rules.

In conformity with the rules of the said Republican town committee the respondent, Newton L. Dickinson, circulated a nomination certificate and obtained the required number of signatures of the enrolled Republicans of such town to place his name upon the primary ballot for the office of Town Superintendent of Highways in compliance with the rules of the town committee, and the names of all candidates for town offices who had obtained the requisite number of names to entitle them to positions upon the primary ballot under the rules of such Republican town committee, were published and posted as required by such rules in the town of Hanover prior to such caucus.

The petitioner did not circulate any nominating petition and made no effort to secure a position upon the primary ballot for any office.

Upon the 2nd day of September, 1919, the primaries in the town were held at the various locations specified in the notice and primary ballots were duly printed and provided by the town committee for the voters upon which were printed the names of all candidates who had secured the required number of names to place his name upon the ballot, and the respondent's name was included thereon as the only candidate for the office of Town Superintendent of Highways. The said primary ballot was made up in about the same manner as an official primary ballot used at primaries under the election law for official primaries for a general election containing instructions to voters. Under each title of office or group of candidates there were blank lines with instructions at the top of the ballot, one of which read as follows: "To vote for a candidate not on this ballot write his name on a blank line under the candidate for that office."

At the primaries so held, the petitioner, Mr. Scott, participated but all votes cast for him had to be done by writing his name upon the blank line under the title of Town Superintendent of Highways. Upon a canvass of the ballots so cast at said primaries there were 444 votes cast for the candidates for the office of Town Superintendent of Highways of which N. L. Dickinson received

420 and F. W. Scott received 21, and Mr. Dickinson was declared duly nominated for such office.

At the primaries every enrolled Republican in the town who desired to vote was accorded the privilege of casting his vote for any candidate for whom he desired to vote but the names of those whose names had not been printed upon the ballot had to be written in by the voter. No Republican was allowed to vote at such primary unless he was also an enrolled Republican voter in the district in which he offered his vote.

Before the caucuses were held on September 2nd, many of the Republican electors of the town apparently became dissatisfied with the rules adopted by the Republican town committee requiring each candidate to file a nominating certificate on or before August 5th. A public agitation ensued and a committee of one hundred was appointed at a gathering of Republican electors and a call was issued for a public meeting to discuss the Republican situation. At the meeting so called 151 persons attended. The meeting was adjourned until a later day and at the adjourned meeting it is claimed there were 245 qualified electors present. It was decided at such meeting to circularize the town in relation to the caucus. The circular consisted of veiled criticisms against the candidates who had filed certificates of nominations, called attention to the date when the primary would be held, named a ticket which had been selected by the committee of one hundred, and stated that any person who was a voter and not affiliated with any other party could vote at such primary if he so desired "without being affiliated." The circular was generally distributed throughout the town. Among the candidates so selected was the petitioner, for the office of "Highway Commissioner." The committee also formulated a ballot to be used at the primary in about the form of an official ballot to be used at an official primary under the Election Law, containing the names of the candidates which had been suggested by the committee of one hundred, including the name of the petitioner. Several voters, claiming to be Republicans, attended the primary and endeavored to vote the ballot made up by the committee of one hundred. Some were refused the privilege of voting because they were not enrolled Republicans but none of the tickets made by the

committee of one hundred was received and the voters were informed that they would not be permitted to vote unless they used the ballot prepared by the Republican Town Committee.

On the 8th day of September, 1919, the said Frank Scott obtained an order from Hon. Charles A. Pooley, a justice of the Supreme Court, requiring Claude L. Newman and Otto Kiefer, chairman and secretary of the caucus, said Otto Kiefer also being secretary of the Republican Town Committee of the town of Hanover, Luke H. Fay, President, and Frank C. Dawley, Secretary of the Board of Elections of the county of Chautauqua, to show cause before him at a special term to be held at Buffalo, on September 10, 1919, why the caucus should not be set aside and a new caucus or primary held in such town. The motion was opposed by Mr. Stearn in behalf of the parties named in the order, and finally heard on the 15th day of September, and resulted in an order made by Justice Pooley declaring that the primary so held on the 2d day of September, 1919, was invalid and ordering the same canceled and directing that a new Republican primary be held in said town of Hanover on the 4th day of October, 1919, "to be conducted under and in accordance with law and the rules of the Chautauqua County Republican Committee" and further directing that "all Republican electors of said town of Hanover may participate in and vote at said caucus." The proceeding was instituted under the provisions of Section 56 of the Election Law. An appeal was taken from such order of Justice Pooley to the Appellate Division of the Supreme Court, Fourth Department, and resulted in a unanimous reversal of such order upon the following grounds as stated in the order:

"**HELD:** That the action of the inspectors in refusing votes should not have been reviewed without notice to them or in some manner bringing them into the proceeding; further, the primary election should not have been set aside without notice of the proceeding to the persons elected or nominated at such election. All concur."

An appeal was taken by the petitioner from the above mentioned order to the Court of Appeals and was pending therein at the time this application was heard and consideration hereof was

postponed by consent of parties until the final determination of the appeal by the Court of Appeals.

On the 16th day of March, 1920, the Court of Appeals rendered its decision which was unanimous and the closing paragraphs thereof are as follows:

"The rules adopted by the county committee pursuant to section 45 of the Election Law in prescribing the manner in which nominations for town, village and school district offices should be made, were controlling throughout the country of Chautauqua and were not subject to alteration or modification by the town committee. In the instant case certain rules were adopted and enforced by the town committee of the town of Hanover, which were in conflict with the rules of the county committee, but in view of our determination as stated and the further conclusion reached it will unnecessary to specify in detail such conflict.

Any determination we might make in favor of appellant would not result in relief to him. The records disclosed that certain individuals were nominated at the primaries and thereafter elected at the general election held in November, 1919. Such persons are now performing the duties of the offices to which they have been declared elected. None of such individuals are parties to this proceeding which was instituted solely against the chairman and secretary of one of the primaries held in the town. If such individuals have intruded into a public office or are exercising the duties of an office to which they were not legally elected, the remedy against them is not in a proceeding like the present one to which they are not parties, but rather by action instituted by the state against such parties. The question presented here is academic and the appeal must be dismissed, without costs."

From the appeal book upon the aforesaid appeal which was introduced in evidence before me, it appears that some four or five persons testified that at the Republican primary held on September 2, 1919, they attended and desired to vote the ballot suggested by the committee of one hundred but were informed that they could not vote such ticket and were given a ballot prepared

by the town committee and informed that if they desired to vote for persons not upon such ballot they would have to write the names in. Fifty other persons testified that they were Republicans and legal voters of the town but not enrolled with any political party and it was their intention, if they had been permitted to vote at such primary, to vote for Frank Scott for Superintendent of Highways and to vote against the ticket prepared by the Republican town committee. It is not stated, however, that any of such fifty persons attended the primary, or attempted to vote thereat. Twenty-three other persons testified that they were enrolled voters of the Republican party of full age and legal voters of the town and it was their intention, if they had been permitted to vote at the caucus to vote and support the petitioner as a candidate for town superintendent of highways and to vote against the ticket prepared by the Republican town committee. None of such twenty-three persons testify that they actually attended the primary or attempted to vote thereat. Thirty-three other persons testified that they were either returned soldiers or sailors; that they were legal voters of such town but not enrolled with *any* political party and that it was their intention if they had been permitted to vote at such caucus to have voted for the said Frank Scott for superintendent of highways and to vote against the ticket prepared by the Republican town committee. None of them swear that they did actually attend the primary or make any attempt to vote thereat.

There was no name or space upon the ballot used at the primary in the election district No. 5, within the Village of Forestville in said town, for a candidate for superintendent of highways, as all parties apparently assumed that the voters within such district had no right to vote for a town superintendent of highways and no voice in the selection of such candidate, and that the electors within such village had no right to participate in the election of such officer.

The petitioner, Frank Scott, sought and obtained the nomination of town superintendent of highways upon the Democratic ticket and upon the official canvass of all the votes cast in said town at the general election held in the town of Hanover on the 5th day of November, 1919, for candidates for town superintendent of highways, it was found that,

N. L. Dickinson had received 869 votes and
 Frank L. Scott had received 253 votes.
 A majority for Mr. Dickinson of 616 votes.

The said Dickinson received a certificate of election, filed his official bond duly approved by the Supervisors, and entered upon the discharge of duties as town superintendent of highways of the town of Hanover on the 1st day of January, 1920, and is still acting in that capacity.

No question is raised upon this application as to his eligibility to hold the office and no objection is made as to his qualifications.

REPORT

It is provided by section 45 of the Election Law that:

“Nominations of party candidates for town, village and school district offices shall be made in the manner prescribed by the rules and regulations of the county committee of the county wherein such town, village or school district is located.”

The Republican county committee of the county of Chautauque had prescribed rules for the conduct of town caucuses and primaries within the county and among such rules it had provided that no person should participate in a Republican town caucus who was enrolled with any other party. I am unaware of any provisions of law which empowers a town committee to adopt rules for the government of town caucuses in contravention of those passed by the county committee, but it appears that the members of the Republican county committee within the town of Hanover, being the town committee of such town, by force of their rules (no doubt acting in good faith), adopted a rule that “no person can vote or participate in the primaries except enrolled Republicans as shown by the enrollment book of 1919.” This rule was enforced at the caucuses and quite a number of Republicans who had neglected to enroll in 1919 were thus deprived of the privilege of voting at such town caucuses. Some offered to vote but were prevented from so doing by the officers presiding at such caucuses. There were some Republican soldiers and sailors

ent in the service at the time the enrollment for 1919 was made up who were among the number who were thus deprived of participation in such town caucuses. This rule had been in force in substantially the same form in the town of Hanover since 1915 and was followed by the caucuses in 1917.

Another rule adopted by such Republican town committee in reference to the securing of signatures and the filing of certificates of nomination was not in compliance with the rules of the Republican county committee. While such a rule might be very desirable in a large town like the town of Hanover, no such authority had been conferred upon the town committee by the county committee and thus the petitioner was handicapped in his candidacy for town superintendent of highways on account of his failure to circulate a nominating petition and procure the necessary fifty signatures thereto and he was thus deprived of position upon the primary ballot made up by the town committee. It is not denied that the petitioner knew of the rule and had the same opportunity as the respondent to file a petition but he did not avail himself of the privilege and evidently preferred to enter the caucuses by having his name written in as a candidate for the office of superintendent of highways, rather than to secure the necessary names upon a nominating petition, and thus obtain a nominated position upon the primary ballot. The petitioner's name was upon the primary ballot suggested by the "Committee of one hundred," but none of such ballots were received by the primary officers so all the votes cast for him were written in on the blank side of the ballot provided by the town committee. It is possible that the petitioner would have received a much larger vote if he had circulated a petition and secured a position upon the Town Committee's ballot, but it is not for the Attorney-General to speculate as to what might have been the result — the fact remains that he only received 21 votes as against 420 cast for Mr. Dickinson. This small showing does not appeal to me as calling for the exercise of the discretionary power of the Attorney-General in favor of a candidate who made such a poor showing, to test the official title of the man who was almost unanimously nominated for the office which he sought.

Both the petitioner and respondent were enrolled Republican

voters of the town and the field was open to both alike, but the petitioner preferred to align himself with a faction of the Republican party which was opposed to the rules which had been adopted by the Republican town committee and he was beaten by a decisive vote of that portion of the enrolled Republicans of the town who attended the several district caucuses. He obtained the democratic nomination and went before the people of the town as a candidate for the same office. He presumably received the votes of all the Democrats who attended the election, and was privileged to solicit and obtain as many Republican votes as he could influence in his favor, but upon the canvass of the ballots it was found that the respondent was elected by a majority of 616 over the petitioner. This emphatic endorsement of the respondent, first by the enrolled voters of the town at the primary, and second, by the people of the town at the election, should not be overthrown or an action commenced to test the title to the office of town superintendent of highways unless the election of Mr. Dickinson was so clearly illegal that it could not stand the test of a judicial examination and determination.

It is claimed by the petitioner that many of the Republican voters of the town were prevented from casting their votes for him on account of the rules which were adopted by the Republican town committee which allowed only enrolled voters to participate and were thus virtually disfranchised at the primaries, but in the main, the affidavit upon which such a conclusion can be predicated, if at all, consists of speculative estimates as to the number claimed to be so disfranchised, if any.

There were no *enrolled* Republican voters disfranchised, as they all had an opportunity to write in the names of any candidate for whom they desired to vote. It appears that some few (impossible to state the exact number), refused to vote because they were not permitted to use the ballot made up by the committee of one hundred and declined to use the ballot prepared by the town committee made up of candidates who had secured the requisite number of names upon nominating petitions as required by the rules of the town committee, even for the purpose of writing in the names of those candidates for whom they desired to cast their ballots.

Eighty-six different persons testified that they were *not* enrolled in any political party, but would have voted for Mr. Scott for superintendent of highways had they been permitted to vote at a Republican primary, but none of them testify that they are Republicans, as that they actually attended the primary or made any effort to vote thereat.

Twenty-three other persons testified that they were enrolled Republicans and that it was their intention to vote for the petitioner, Frank Scott, if they had been permitted to vote at such Republican caucus, but none of them say that they actually did attend the caucus or made any attempt to vote. Thirty-three of the voters mentioned in the group of eighty-six above mentioned testified that they were returned soldiers or sailors. There are statements made by two or three other parties as to their estimates of the number of Republican voters which the affiants allege were disfranchised through the action of the Republican committee, as hereinbefore stated. Such statements are entirely speculative and while I do not doubt the honesty or good faith of the affiants, it is possible that such guesses were augmented by the political zeal or partisan bias of such affiants. In any event, I would not feel justified in predicating a finding that a majority of the Republican voters of the town were disfranchised on such statements and that the nomination of Mr. Dickinson was secured through the disfranchisement of a majority of the Republican voters at the primary when it appears that only one hundred and thirty persons, including the twenty-one votes actually cast for him have expressed an intention to have supported Scott as against Mr. Dickinson, and when we consider the fact that if the whole 130 had participated and voted for Mr. Scott, Mr. Dickinson would still have had 290 majority, it is somewhat incredible that if the rules of the county committee, and anybody not enrolled with any other party had been privileged to vote at such primary, that Mr. Scott would have been nominated.

It is testified by Claude L. Newman that he was the secretary of the caucus held in and for the village of Irving which included election districts Nos. 1, 2, 3 and 4 of said town of Hanover, and that upwards of four hundred voters attended said caucus, and

that not over ten voters were denied permission to vote at the caucus.

There is a wide difference between the estimates of the witnesses and it is possible that the parties upon both sides were unconsciously influenced in making such estimates by their interest or zeal for the side which obtained their respective affidavits. This demonstrates the futility of attempting to predicate a conclusion based upon such estimates. Considering the great discrepancy in the actual number of votes cast and all the other facts surrounding the several caucuses, I am forced to the conclusion that Mr. Dickinson was the choice of the Republican voters of the town for the office of town superintendent of highways by a large majority and that Mr. Scott was not defeated as a candidate for such office on account of the disfranchisement of voters by force of the rules of the Republican town committee.

The petitioner instituted a proceeding under section 56 of the Election Law to have the caucus set aside and an order was made by Justice Pooley of the Supreme Court setting it aside. The order was afterwards reversed by the Appellate Division, Fourth Department, not upon the merits, but upon the ground that the action of the inspectors in refusing votes should not have been reviewed without notice to the inspectors and the primary election should not have been set aside without notice of the proceeding to the persons nominated. Motion to appeal to the Court of Appeals was denied by the Appellate Division.

The petitioner afterwards appealed to the Court of Appeals and the appeal decided on March 16, 1920, in which the court held in substance that the petitioner's remedy, if he had any, was by a writ of *quo warranto* instituted by the State, and that the individuals nominated at the September primary had since been elected at the general election in November, 1919, and were then performing the duties of the offices to which they had been elected, and that the question presented upon the appeal had become academic and the appeal must be dismissed. The petitioner thereafter made a motion for reargument of the appeal which was heard on the 12th day of April, 1920, and thereafter denied.

The petitioner also brought an action in the Supreme Court to

restrain the election officers from printing the respondent's name upon the official ballot for the election held on November 4, 1919, and to have the primary of September 2, 1919, declared illegal and void, and the temporary injunction granted therein was vacated. The petitioner then made application for a stay of proceedings which had at first been granted upon an *ex parte* application and such stay was afterwards vacated by the same judge that granted it.

I am not fully informed as to the present status of the above mentioned action but I am in full accord with the suggestion of the Court of Appeals that the only way the title to the office of superintendent of highways of the town of Hanover can be tested is by an action in *quo warranto*.

At the election held in November, 1919, the petitioner obtained the nomination for town superintendent of highways upon the democratic ticket, and was thus enabled to go before the people of the town as a candidate for the same office to which he sought the nomination at the Republican primary and was thus in a position where his Republican friends could favor him if they so desired, simply making a cross before his name instead of before the name of Mr. Dickinson. He also had the benefit of the democratic support but Mr. Dickinson was elected by a majority of six hundred and sixteen, receiving 869 votes to Mr. Scott's 253.

It thus appears that Mr. Dickinson was the choice of nearly all the Republican voters of the town for the office of town superintendent of highways at the Republican primary, and the choice of a very large majority of the people of the town at the election which followed. The question now arises whether the Attorney-General should allow an action to be brought to try his title to the office after his emphatic endorsement by his party as its candidate at the primary and subsequently by the people of the town at the election.

However desirable it may appear to the Republicans of the town of Hanover to compel candidates for town offices to secure positions on the town primary ballot by way of nominating petitions, there is no statutory authority for requiring it and in the absence of any rule by the Republican county committee, neither the town committee nor the Republican electors of the town were

authorized to adopt such a course and I think the primary officers erred in refusing to accept the ballots of all candidates who had not filed such nominating petitions. The rule also established by the town committee allowing only enrolled Republicans to vote at the primary, did not accord with the rules which the county committee had adopted.

It is provided by section 45 of the Election Law in part, as follows:

“Nominations of party candidates for town, village and school district offices shall be made in the manner prescribed by the rules and regulations of the county committee of the county wherein such town, village or school district is located.”

The county committee had promulgated a rule that no person should be allowed to participate in a town caucus “who is enrolled with any other party than the Republican party.” Under this rule the town committee had no authority to pass a rule prohibiting all Republicans not enrolled to vote at the caucus and I think the primary officers erred in refusing a qualified Republican, even if he was not an enrolled Republican, to vote at such caucus. Notwithstanding the rules of the town committee and the action of the primary officers, I am satisfied that Mr. Dickinson was the pronounced choice of the Republicans of the town for the office of superintendent of highways and would have been nominated if the ticket proposed by the committee of one hundred had been received and all Republicans not enrolled with any other party had been allowed to vote.

I am unable to find any case where a public officer, duly elected at a general election, has been ousted on account of irregularities in the primary at which he was nominated for the office.

The Election Law provides a method for the review of the proceedings of a caucus and Mr. Scott instituted a proceeding under such statute and was defeated. Whether he was beaten upon the merits or for failure to serve all the parties that should have been served, the Court of Appeals has disposed of the question and his defeat at the primary was followed by his defeat at the polls, and I do not think the Attorney-General should allow an action to be brought to test the title to an office where the incumbent was

ected by a decisive majority simply to establish a precedent for future action. I am satisfied that such an action could not be maintained and I would be doing violence to my best judgment I should recommend the commencement of an action.

The allowance or disallowance of an action in the nature of *habeas corpus* is addressed solely to the discretion of the Attorney-General, and he should be guided by the facts in each case, the probabilities of success, a fair consideration of the claims of both parties and the public interests.

“It is evident that the legislature used the words ‘may’ and ‘shall’ intelligently and with a purpose that no positive duty is imposed upon the Attorney-General to bring an action upon request of a party claiming office from which he is expelled. The statute does not give the individual claiming the office or any other person the legal right to compel an action to be brought by the law officer of the state, or to bring an action in the name of the people. The control over the action and the right to bring it is with the Attorney-General, and the courts cannot sit in judgment upon the exercise of his discretion or coerce his action.”

People ex rel. Demarest et al v. Fairchild, 67 N. Y. 334, 336.

People ex rel. Peabody v. Attorney-General, 22 Barb. 114.

I do not think the public interests require the commencement of an action in this case. The greater number of the Republicans of the town appear to have favored the candidacy of Mr. Dickinson and the greater number of the voters, his election to office. He has been installed in the office and should not be prejudiced in his occupancy thereof by any irregularities in the nomination for which he is in no wise responsible, and should not be put to the annoyance and expense of defending his title unless it is so clearly illegal or fraudulent that it cannot be sustained.

No fraud or illegality is alleged as against the election and this application is based solely upon alleged irregularities at the primaries, and while I think the Republican town committee exceeded its authority in the adoption of rules which did not conform to the rules of the Republican county committee, still I think

the result would have been the same and that Mr. Dickinson would have been nominated if the county committee rules had been fully complied with. I do not feel that such irregularities would justify the commencement of an action in the nature of *quo warranto* in an attempt to oust him therefrom.

This proceeding is largely the outgrowth of a factional fight in the Republican party. I have not been swerved in my conclusions by the local politics which have crystalized in this application, and the parties should be left to settle their local difficulties by and with the use of the ballot without resort to the courts mainly for the establishment of a precedent.

I do, therefore, recommend that the application be denied.

Dated June 15, 1920.

GEORGE A. FISHER,
Second Deputy.

Approved and application dismissed:

CHARLES D. NEWTON,
Attorney-General.

In the Matter of the Application of JACOB SHENFIELD for the Institution of Proceedings by the Attorney-General against VICTOR KREMER FILM FEATURES, INC., VICTOR KREMER, EUGENIE KREMER, CURT KREMER and PAUL GROSS, Individually and as Officers and Directors of the VICTOR KREMER FILM FEATURES, INC.

In the Matter of the Application of ISAAC MACOWSKY for the Institution of Proceedings by the Attorney-General against VICTOR KREMER FILM FEATURES, INC., VICTOR KREMER, EUGENIE KREMER, CURT KREMER and PAUL GROSS, Individually and as Officers and Directors of the VICTOR KREMER FILM FEATURES, INC.

OPINION ON THE APPLICATIONS MADE IN THE ABOVE-ENTITLED MATTERS

The conduct of the corporate affairs of Victor Kremer Film Features, Inc., and the acts of certain of its officers have been called to the attention of the Attorney-General in two petition

the titles to which are above set forth and applications have been made to the Attorney-General pursuant to the provisions of section 90 and 91 of the General Corporation Law to begin an action to compel the corporation and the directors and officers to account for their official acts and to make restitution of certain moneys and properties alleged to have been improperly diverted, and to restrain such officers and directors from further alienating the corporate property. The two petitioners both claim to be creditors and as the petitions deal with the same transactions they will be considered in one opinion.

It is alleged that the petitioner Jacob Shenfield in October, 1919, entered into a contract with the corporation by virtue of which he became office manager for the term of one year and as compensation became entitled to receive 25 per cent of the net profits of the business and to a drawing account of \$100 a week on account of said profits. Provision was made in the contract for the keeping of correct books of account and for the taking of an account quarter-annually. Further, that a final account should be stated at the end of the term and payment made of all amounts due as a percentage of such profits. Said Shenfield was also elected a director of said corporation.

The corporation is engaged in the business of producing and distributing motion pictures.

Mr. Shenfield further alleges that he was illegally removed as director, that subsequent to June 12, 1920, the corporation refused to pay him the sum of \$100 a week as his drawing account and sets forth specific acts having to do with the diversion of the property and funds of the corporation, which diversion he alleges as being made for the purpose of depriving him of his profits on the final accounting.

The petition of Isaac Macowsky sets forth that he advanced to the corporation as a loan certain moneys for which he received promissory notes amounting to \$13,000, and that the corporation assigned to him certain accounts as collateral security; the amount due on such accounts to be received by the corporation and deposited in a special bank account, to be under the control of Jacob Shenfield. Said Macowsky further asserts that the moneys due on these assigned accounts were collected by the cor-

poration and were not placed in the special account provided for and that certain motion pictures belonging to the corporation have been transferred to other corporations controlled by Victor Kremer without consideration and also alleges the misappropriation of the moneys of the corporation by the officers and other illegal acts.

While Shenfield alleges that he was improperly removed as a director, he does not make this application as a director. Both he and Macowsky set forth that their interest is that of creditors.

Sections 90 and 91 of the General Corporation Law do not restrict the Attorney-General to actions solely on a complaint of parties who have a direct interest in the conduct of corporate affairs. The provisions of these sections appear to be broad enough to permit the Attorney-General on his own initiative to begin proceedings against corporations when he becomes aware that their conduct is such as to involve public interest. It is ordinarily assumed, however, in the case of offenses by officers of strictly private corporations that there is a minimum of probability that any considerable public interest is involved when no complaint is made of the conduct of corporate affairs by either stockholders or creditors.

The status of the two complainants in this case appears to be somewhat doubtful. Two hearings were had but no testimony was taken. The statements of counsel made at these hearings and their agreement as to certain facts, however, leave the status of the complainants open to question. The respondents in their answer deny all of the allegations of the petitions which have to do with alleged wrongful acts of the officers of the corporation. The contract with Shenfield is admitted as is also the issuance of the promissory notes to Macowsky. Macowsky, however, prior to the institution of these proceedings disposed of his promissory notes, endorsing them over to a third party. Subsequent to the bringing of the action \$10,000 was paid on account of the notes, leaving a balance of \$3,000 in dispute, to which extent the officers of the corporation claim that the notes were without consideration and also that Shenfield was discharged as manager for good reason and that his contract with the corporation does not grant to him an absolute right to his \$100 drawing account, but that such amount can only be drawn by him when profits are sufficient to

show money due him. Macowsky is, therefore, interested only in the contingency that recourse might be had to him as an indorser on the notes provided the indorsee shall fail to collect from the maker. Shenfield is in the position of having a right of action against the corporation for breach of contract and for an accounting as to profits. Both petitioners, if they are creditors, have the same right as has the Attorney-General to proceed against the corporation under the provisions of sections 90 and 91 of the General Corporation Law except that they cannot apply to the court for the removal of the officers, this right being reserved to the Attorney-General. They do not ask for such latter relief in their petition.

The acts complained of in the petition would, if the allegations be true, constitute a gross violation of trust and indicate an entire absence of any moral sense on the part of those who committed them if such acts were to affect any person other than those who participated therein.

It appears, however, that Victor Kremer is the owner of practically all of the stock of the corporation. This is not a case of a large corporation with thousands of shares of stock widely distributed among people who have no intimate knowledge of the conduct of the corporate affairs. There is no stockholder to suffer or complain. Up to the present time it seems that the corporation has paid all of its debts. There is only an apprehension on the part of the petitioners that if they shall succeed in any action against the corporation and secure a judgment in their favor, the corporation might not at the time of the rendition of such judgment be in a position to pay the same.

All of these circumstances, the restricted character of the holding of corporate stock, the absence of complaint by any stockholder and the debatable character of petitioners' claims, lead me to the conclusion that this is not a case in which there is such a public interest as to require that the Attorney-General should bring an action.

In the *Matter of Tudor* (Commonwealth Finance Corporation), opinion of Attorney-General, 1919, page 393, the powers and duties of the Attorney-General in matters of this character are discussed at considerable length. Attention is called to the fact

that the remedy of an action by the people is not an exclusive one, that creditors and stockholders have an equal right to compel restitution by corporate officers. Reference is made to the opinion of the court in *People v. Lowe*, 117 N. Y. 175, 190, and in *People v. Ballard*, 134 N. Y. 269.

In the former case the court emphasizes this conclusion; that the Attorney-General ought not "by a suit in the name of the people, at their expense and risk, intrude in a mere private quarrel in which the people in no proper sense have a shadow of right or interest" The court further indicates that corporations, the conduct of which might involve public interest, are "such as municipal, charitable, religious, eleemosynary, which are public and discharge functions which might otherwise devolve upon the government. The officers of other corporations organized solely to preserve private interest and promote individual welfare must be administered by persons interested therein, who must redress their wrongs and enforce their rights like other citizens."

The *Ballard* case takes a somewhat broader view of the powers of the Attorney-General and holds that his discretion as to whether he shall bring an action is not subject to review by the court. It may clearly be inferred from the opinion, however, that the court, which rendered it, had in mind that when corporations not of a public or quasi-public character should be involved that the Attorney-General should be extremely careful not to undertake an action solely for the purpose of assisting a private litigant to secure redress. In the *Ballard* case there was a considerable distribution of stock among certain of the stockholders, who were undoubtedly defrauded by irregularities in the conduct of the corporate affairs.

It is intimated in this opinion of the Attorney-General in the *Tudor* case on page 402, that there may be "a public interest in requiring managers of domestic corporations to observe the limitations of their charters and not abuse their powers. Because the State created the corporation it is responsible in a measure for its existence and it can be reasonably said that some responsibility rests upon the State to control the corporation within lawful limits." There are, however, many thousands of small corporations conducting business within this State where the entire stock

owned and controlled by one or two individuals and the entire management of the corporation is in their hands. I do not believe that the statute in question, sections 90 and 91 of the General Corporation Law, was ever intended to impose upon the Attorney-General the duty of bringing an action in every case where officers of such small corporations should commit irregularities in the conduct of corporate affairs, unless perhaps such irregularities should be of substantial proportions and be part of a general scheme to defraud creditors, of unquestioned status as such.

Reference is made in the petition to a possible evasion of payment of the taxes by the corporation by reason of the diversion of property and moneys. While this allegation if true might involve a public interest, yet provision is made elsewhere in the statute for the determination of such fact by both Federal and State authorities and this instant proceeding cannot be resolved into an inquiry of that character. Such fact, if established and brought to the attention of the Attorney-General, should undoubtedly be considered by him in determining the extent of the public interest involved.

It is my conclusion, therefore, that there is not in this instant case such a public interest as to warrant the Attorney-General in exercising the discretion with which he is invested and beginning an action for which this application is made. I recommend that the application be denied.

Dated October 8, 1920.

ROBERT S. CONKLIN,
Deputy Attorney-General.

Approved October 14, 1920.

CHARLES D. NEWTON,
Attorney-General.

By G. A. FISHER,
Second Deputy.

**OPINIONS TO
COMMISSIONERS OF LAND OFFICE**

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OPINIONS TO COMMISSIONERS OF LAND OFFICE

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, *January 21, 1920.*

To the Commissioners of the Land Office, Albany, N. Y.:

GENTLEMEN.— WHEREAS, by resolution of your Honorable Body, dated February 20th, 1918, it was “Resolved that hereafter no grants be ordered of lands under the waters of Lake Erie, in or about the City of Buffalo, under the provisions of chapter 616 of the Laws of 1913, unless and until the applicants therefor shall also apply and pay for the lands under water lying between the present high water mark bounding the adjacent uplands and the arbitrary line fixed by section 2 of said act,” and,

WHEREAS, claims have been presented on behalf of the City of Buffalo and various owners of uplands fronting the waters of Lake Erie, in and about the City of Buffalo, that said resolution is inequitable for the reason that it is claimed that said owners of the shore-front property had good title to said lands by patents from the State to said arbitrary line fixed by section 2 of chapter 616 of the Laws of 1913, and that the lands lying between the present shore line and said arbitrary line were lost by avulsion and not by erosion, and your Committee having listened to the arguments of said applicants formally presented at hearings before your Committee, and after reading a brief submitted by the Corporation Counsel of the City of Buffalo upon the law, your Committee would recommend the adoption of the following supplemental resolution:

The resolution of this Board adopted February 20, 1918, as above set forth, shall be without prejudice to the right of said applicants to prove that the title to the said lands under water intervening between the present shore line and said arbitrary line

as the same has been determined pursuant to section 2 of chapter 616 of the Laws of 1913, by the State Engineer and Surveyor, and shown upon his map and survey thereof, dated January 21, 1920, which map is on file in the office of the Secretary of State, and is hereby ratified and approved by this Board, was formerly in said applicants or their grantors, and that the title thereto during such ownership was lost by avulsion and not by erosion, in which event of loss of title by avulsion, it is admitted that the State would not now be the owner of such intervening lands, and a grant thereof by this Board would be unnecessary and improper; and upon such proofs being made, a grant may be authorized by this Board of lands under water between the arbitrary line so fixed and determined and the Harbor Line as established by the Secretary of War, March 27, 1899, without any application being made for said intervening lands.

Respectfully submitted,

CHARLES D. NEWTON,

Attorney-General.

JAMES L. WELLS,

Treasurer.

FRANK M. WILLIAMS,

State Engineer and Surveyor.

STATE OF NEW YORK,

OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, *January 28, 1920.*

BEFORE THE COMMISSIONERS OF THE LAND OFFICE

In the Matter of the Application of ADELINA M. MUNNICH for the advertisement and sale of lot 726 of the Wooley Tract in the former Town of New Utrecht, Kings county, title to which was acquired by the State from the 1895 Tax Sale for unpaid taxes of 1890 to 1892 inclusive.

To the Commissioners of the Land Office:

GENTLEMEN.—The above entitled application having been referred to me for a report as to the equities of the applicant in the

lands applied for, I have the honor to report that the owner of the property at the time of the 1895 tax sale was John H. Meyer who acquired title in the year 1891 from John C. Loshen and the Blythebourne Improvement Company.

In the year 1905, ten years subsequently to the tax sale in question, said Meyer and wife conveyed their interest to John Brandner.

On February 11, 1907, Adelina M. Munnich, the applicant therein, first acquired an interest in this property under a mortgage from John Brandner and wife which she foreclosed in the year 1918 and took title to by referee's deed dated June 28, 1918. It further appears by affidavit of Frieda Brandner, the wife of said John Brandner, that at the time her husband bought the property in 1905 there was a very old building erected thereon which had probably been standing for more than twenty-five years, undoubtedly prior to the year 1895, the date of the tax sale, and that John Brandner made alterations in said building and used the same as a corner grocery store at the northwest corner of Fifty-seventh street and New Utrecht avenue in the Borough of Brooklyn.

Mrs. Munnich, the applicant, now offers to bid fifty dollars (\$50.00) for the State's title to these lands. The referee's deed to her on the foreclosure in 1918 expresses a consideration of seven thousand dollars (\$7,000).

Messrs. Jantz and Reimers, appraisers, report that seven thousand dollars (\$7,000) is a fair value of the property.

Respectfully submitted,

CHARLES D. NEWTON,

Attorney-General.

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, *January 28, 1920.*

To the Commissioners of the Land Office:

GENTLEMEN.—Upon the request of the Conservation Commissioner showing that certain lands in lots 55, 56, 62 and 63 of Adgate's Western Tract in Oneida county, the same being a

Forest Preserve county, and upon the report of the State Comptroller showing that the State acquired title to these lands in 1870 upon the foreclosure of the loan mortgage; that in 1879 said lands were sold by the State Engineer and Surveyor to one Thorp who paid one-fourth of the consideration money at the time of the sale and gave his bond for the balance; that default having been made by Thorp said lands were resold by the State Engineer and Surveyor on June 8, 1899, and bid in for the State, the amount due at the time of said resale for principal, interest and advertising being one thousand five hundred and ten dollars and twenty-five cents (\$1,510.25); that upon said resale in 1899 the State Engineer stated in his published notice of sale that no bids from individuals would be received and that at such resale he would actually refuse to accept any bids if such bids were offered upon the theory that these lands were in a Forest Preserve county and that the State Constitution forbade his selling the lands to individuals (see proceedings Commissioners of the Land Office for 1915, pp. 76 to 86 inclusive), I have the honor to report that in various litigations affecting other lands in Forest Preserve counties which were sold at the State Engineer's resale on June 8, 1899, the courts have held that said alleged resale of 1899 was void and ineffectual because of such provision inserted in the State Engineer's notice of sale that he would bid in for the State all of said lands and reject any and all bids by others therefor under section 7, article VII of the State Constitution prohibiting the sale of lands in the Forest Preserve and that the said constitutional provision did not prohibit the State Engineer and Surveyor from selling said land upon the resale to individuals.

My predecessor, Judge Woodbury, in reports made to your Honorable Board in May, 1915, in the cases above referred to states that he concurs with Justice Borst in such conclusion in the two cases therein referred to.

My predecessor, Attorney-General Lewis, in reporting on another case arising under said resale of 1899 also concurred in the decision by Mr. Justice Henry T. Kellogg to the same effect.

As the facts above set forth are uncontrovertible I would, therefore, recommend that the petition of the Conservation Com-

Commissioner be approved and that the State Engineer be directed to resell the lands in accordance with the provisions of section 7 of the Public Lands Law.

The Conservation Commissioner states that it is improbable that anyone would bid for the land the amount due upon the bond and upon the proper resale being made the land would probably be bid in for the State and its title thereby perfected.

Respectfully submitted,

CHARLES D. NEWTON,

Attorney-General.

STATE OF NEW YORK,

OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, *February 20, 1920.*

HON. FRANK M. WILLIAMS, *State Engineer and Surveyor,*
Albany, N. Y.:

DEAR SIR.—I am in receipt of your communication of the 10th inst. enclosing copies of your correspondence with Roland Baxter, Esq., attorney for Roy H. Bennett Lumber Co., of North Tonawanda, N. Y., regarding the rights acquired by a patentee under grant of lands under water for the purpose of promoting the commerce of the State and for no other object or purpose whatsoever made on July 12, 1877 to the predecessor in title of said lumber company, and requesting my opinion whether said company has now the necessary authority thereunder to construct buildings other than docks upon the lands so granted for purely commercial purposes.

Replying would say that the powers of the commissioners of the land office were extended over former limitations by chapter 32, Laws of 1835 but by section 2 of this act it was provided that said commissioners should be vested with "no other power than to authorize the erection of such dock or docks as they shall deem necessary to promote the commerce of their state, and the collection of a reasonable and accustomed dockage from persons using such dock or docks and the legislature may at any time regulate the same in such manner as they shall think proper."

Subsequently by ch. 283, Laws of 1850 the commissioners were empowered "to grant in perpetuity or otherwise, so much of the lands under the waters of navigable rivers or lakes, as they shall deem necessary, to promote the commerce of this state, or proper for the purpose of beneficial enjoyment of the same by the 'adjacent owner.' This was the first legislative authority to the Land Board to make beneficial enjoyment grants. And the existing Public Lands Law, chap. 50, Laws of 1909, by section 75, contains precisely the same powers, together with also authority to make such grants for a third purpose to wit: "for agricultural purposes."

Chap. 67, Laws of 1786, being the first statute authorizing the Land Board to grant lands under water, as they should deem necessary to promote the commerce of the state, provided that all letters patent shall be in such words and forms as the said commissioners shall direct and shall except and reserve all gold and silver mines and shall vest the lands in fee simple. By the Revised Statutes of 1827 and by all subsequent legislation to date the provision that title to lands granted by the Land Board shall vest in fee has been wholly omitted. But the Land Board has continued to date to have full power to establish the forms of grants.

On February 13, 1832 forms for water grants for purposes of commerce were approved by the Commissioners of the Land Office, containing reservations to the State of the right to use the granted premises until appropriated and applied to the purposes of commerce, by erecting docks and wharves thereon and *filling in the same* and upon condition that if the patentee should not within two years so erect docks and wharves and *fill in*, then the patent should cease "so far as relates to any part of the granted premises which shall not have been so appropriated and applied."

On May 24, 1839 a new form of water grant was adopted by the Land Board under the provisions of said chap. 232, Laws of 1835, which simply granted power and authority to erect docks that should be necessary to promote the commerce of the State with right to collect wharfage from persons using said docks but granted no lands under water whatsoever nor was any filling in thereof mentioned or required.

On April 6, 1842 the form of these commerce grants was again

changed by continuing the power to erect docks and to collect wharfage and reserving the right of the State to use the granted premises until same should be appropriated and applied to the purposes of commerce by erecting docks and upon condition that if within a specified period the patentee should fail to erect docks and fill in the lands over which the power to erect docks was granted, the patent should become void.

On July 23, 1853 under ch. 283, Laws of 1850 (which authorized grants in perpetuity or otherwise for commerce or for beneficial enjoyment) the form of commerce grants was again changed to grant the land under water and between high and low water marks for promoting the commerce of the State and for no other object or purpose whatsoever with same reservations and upon same conditions as provided for in 1842.

On February 11, 1870 the Land Board upon the report of a special committee appointed to revise the form of water grant patents, resolved that "no grant for beneficial enjoyment shall be made where the Board shall deem it necessary that a grant of such land should be made to promote the commerce of this state," the form of grants for purpose of promoting commerce then in use was continued without change or modification although the form of beneficial enjoyment grants was changed.

In an opinion by Attorney-General Tabor to Rogers, Locke & Wilburn, Buffalo, N. Y., dated September 11, 1891 on the interpretation of the meaning of the words "for beneficial enjoyment" as used in the statutes authorizing water grants, he states: "It would appear that under the conditions of the statute a grant by the commissioners of the land office for commercial purposes would only authorize the erection of docks on the land granted in such number and style as would promote the commerce of the State, authorizing the grantee to collect reasonable dockage from persons using the docks. By the amendment of section 67, Revised Statutes in 1850, chap. 283, which conferred power upon the Land Board to make grants "for beneficial enjoyment," the legislature assumed that grants for purposes of commerce were of a limited character and subject to legislative control. On the other hand, a grant for "beneficial enjoyment" to a grantee, his heirs and assigns, imports a fee and I think the Legislature by

said amendment of 1850 when it authorized the Land Board to make grants for beneficial enjoyment intended a fee should be conveyed where the land applied for was not necessary for purposes of commerce."

"The practice of the Land Board in fixing the consideration of these grants has been uniform. In the cases of grants for commerce only a nominal sum has been charged, whereas in grants for beneficial enjoyment the full appraisal value has been required. The uses to which you propose to apply the lands in question seems to me to require a grant for beneficial enjoyment. Whether such lands are necessary for purposes of commerce is a question for the board to determine. You could make the application for beneficial enjoyment and the commissioners may then determine which kind of grant should be made."

Attorney-General Rosendale cited with approval his predecessor's opinion as aforesaid, in a report made by Mr. Rosendale to the Land Board on February 13, 1892.

Again in 1894 the Land Board determined by resolution "that no grants for beneficial enjoyment shall be made when the Board shall deem it necessary that the grant of such lands should be made to promote the commerce of the state," and at this time new forms of commerce grants and beneficial enjoyment grants were adopted, which form of commerce grant has been continued in use to the present time. By this form lands under water are granted for the purpose of promoting the commerce of the State by the building upon the premises conveyed, of a *public* dock or docks by owner of the adjacent uplands and for no other object or purpose whatsoever and with the reservation and upon the condition that the grantee shall acquire no right, title or interest, unless within five years, he shall actually appropriate said premises to purposes of commerce by erecting thereon a *public* dock or docks and that all of the right, title and interest in and to so much of the granted premises as are not actually occupied and covered by said dock or docks and their necessary approaches shall remain in the people as though the grant had not been made. Under the present form, filling in of the lands granted for purposes of commerce is not required as is the case in the present form of beneficial enjoyment grants.

Nov. 8, 1911 Attorney-General Carmody in a letter to the Commissioners of Docks and Ferries of the city of New York, traced the history of water grants and showed that chap. 283, of 1850, authorizing the making of beneficial enjoyment was "was a radical departure" (citing an opinion of Attorney-General Hoffman, dated March 16, 1854) and stated further as follows:

"For the legal distinction between commerce grants and those for beneficial enjoyment, I would refer you to the opinion of Attorney-General Rosendale, dated Feb. 13, 1892 and also to Court of Appeals opinion in *Thousand Island Steamboat Co. v. Visger*, 179 N. Y. 206 * * * It is my opinion that the patentee under a commerce grant has no authority to erect other than docks or similar structures upon the lands under water and that such a grant does not license him to build factories, stores or dwellings. In other words, the grant is made strictly for the subservience of commerce by the building of docks alone. The buildings you refer to in your letter, such as coal hoists, coal pockets, storage warehouses, stone-yard appliances, factories, gas tanks and amusement buildings, can alone be erected on lands granted for the purposes of the beneficial enjoyment of the uplands of the adjacent owner."

Attorney-General Carmody in his opinion rendered to the State pursuant to its resolution of March 29, 1912 relative to constitutionality of chap. 355, Laws of 1907 incorporating the Sault Development Co. urged that the act was unconstitutional and among other things stated.

"THE TITLE OF THE STATE OF NEW YORK TO LANDS UNDER NAVIGABLE WATERS IS A SOVEREIGN RIGHT RATHER THAN A PROPRIETARY TITLE.

"The State holds such lands in trust for the benefit of the public and that trust the State is powerless to divest itself of. This doctrine has been clearly announced whenever the question has been before the courts, both in State and in federal

tribunals and is not open to doubt. In the case of *Coxe v. The State*, 144 N. Y. 396, a case very similar to this, the court announced this principle in the following language:

“ ‘The question is governed in this state by the rule of common law, modified in some respects by statute and as adapted by the courts to such changes of conditions as existed here. That the dominion and ownership of such lands (under navigable streams) is in the sovereign for the benefit of the public has long been settled. Such dominion and ownership of property generally implies the power of absolute disposition, but with respect to the land under navigable or tide waters an important limitation has been engrafted upon this power from the nature of the title. The title of the state to the seacoast and the shores of tidal rivers is different from the fee simple which an individual holds to an estate in lands. It is not a proprietary but a sovereign right, and it has been frequently said that a trust is engrafted upon this title for the benefit of the public which the state is powerless to divest itself.’ ”

“ ‘The same doctrine is announced in *People v. N. Y. & I. Ferry Co.*, 68 N. Y. 71, and numerous other cases.’ ”

“ ‘The United States Supreme Court states the same doctrine in *Illinois Central R. R. Co. v. Illinois*, 146 U. S. 377. The court was there considering the validity of an act of the Illinois State Legislature, repealing a former act of the Illinois Legislature, which former act undertook to grant to the Illinois Central Railroad Company certain lands under the waters of Lake Michigan. Upon that point the court said:

“ ‘The State holds the title to the lands under the navigable waters in trust for the people of the State, that they may enjoy the navigation of the waters, carry on commerce over them and have liberty of fishing therein, freed from the obstruction or interference of private parties. * * * The control of the State for the purposes of the trust can never be lost except as to such parcels as are used in promoting the interests of the public thereon or can be disposed of without a

substantial impairment of the public interest in the lands and waters remaining. * * *

“ ‘The State can no more abdicate its trust over property in which the whole people are interested, like navigable waters and soils under them, so as to leave them entirely under the use and control of private parties except in the instance of parcels mentioned for the improvement of the navigation and use of the waters, or when parcels can be disposed of without impairment of the public interest in what remains, than it can abdicate its police powers in the administration of government and the preservation of the peace.’

“ There are numerous other cases in the United States court holding the same principle.

“ The title to this land is not necessary for the enjoyment by the company of all of the power incident to the development of water and electrical power at that point. It is not a grant for any public use or in which the public at large is interested or by which the public is benefited. It clearly, therefore, contravenes the very nature of the State's sovereign control in this respect.”

Mr. Baxter in his letter to you of February 5, 1920, calls attention to the case of *People v. American Sugar Refining Co.*, Misc. 703 and 182 App Div. 212.

In this case which was a demurrer to a faulty complaint, the Appellate Division calls attention to several inconsistent allegations of the complaint in an action under the code to set aside a letters patent, at least three of which were for purposes of beneficial enjoyment, because the defendant has erected and was maintaining a sugar refinery upon the lands granted instead of building and maintaining public docks. The Appellate Division affirmed the orders of the Court below denying plaintiff's motion for judgment on the complaint and demurrer and granting defendant's motion for judgment dismissing the complaint but only because the complaint was so indefinite in the allegation of facts as to make it impossible for the court to determine plaintiff's rights.

Under those circumstances it was deemed inadvisable to call that case to the Court of Appeals but this department must adhere to its uniform contention as applied in *Thousand Island Park Association v. Visger*, 179 N. Y. 206, that under a common-law grant only public docks can be maintained affording rights of wharfage to the general public.

Very truly yours,

CHARLES D. NEWTON,

Attorney-General.

By J. L. CHENEY, *First Deputy.*

STATE OF NEW YORK,

OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, *February 26, 1920.*

BEFORE THE COMMISSIONERS OF THE LAND OFFICE

In the Matter of the Application of A. E. FELDMAN of Lockport, New York, for Advertisement and Sale of Certain Escheated Property on Olcott Street, Lockport, New York.

In the Matter of the Application of HOWARD HARRIS, Attorney of Lockport, on Behalf of a Client for Advertisement and Sale of the Same Property.

To the Commissioners of the Land Office:

GENTLEMEN.—Referring to the offer of A. E. Feldman to pay six hundred and fifty dollars (\$650.00) therefor, would say that the property therein mentioned is the same property referred to in the minutes of the Commissioners of the Land Office for the year 1918, page 378, as having escheated to the State upon the death of Robert Hackney, of Lockport, N. Y., in the year 1917 without leaving any heirs.

Under authority granted by the Land Board I have leased the property for one year from May 1, 1919, to Fannie R. Gray of Lockport, N. Y., for a yearly rental of fifty-two dollars (\$52.00) and on May 26, 1919 and December 23, 1919, transmitted to the State Treasurer checks in payment of said rent to May 1, 1920, less 5 per cent commission paid a real estate agent.

The escheated property was assessed upon the assessment rolls of the city of Lockport for the sum of six hundred dollars (\$600.00). It would, therefore, appear that the offer is a reasonable one and I suggest that the land be appraised by the State appraisers. I have written Mr. Feldman, the applicant, inquiring whether he still wishes to continue his offer.

On February 9, 1920, I received a letter from Simon Wurtzman, a brother-in-law of Mr. Feldman, stating that Feldman is leaving town and is not in a position to purchase the property, but that he, Wurtzman, might be interested. I accordingly wrote Mr. Wurtzman, suggesting that if he was willing to bid the amount which Mr. Feldman offered, which was \$650, he should address his communication to the Commissioners of the Land Office to that effect. It is possible that the new application by Howard Harris, as attorney, is in behalf of Mr. Wurtzman. Mr. Harris states that his client will bid \$650.

Respectfully submitted,

CHARLES D. NEWTON,

Attorney-General.

STATE OF NEW YORK,

OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, *February 26, 1920.*

SUPREME COURT — QUEENS COUNTY.

TERESIA LOESEL AND ANOTHER, Plaintiffs, v. ELIZABETH J.
NAVIN AND OTHERS. Defendants

To the Commissioners of the Land Office:

I have examined the verified statement of George G. Grainger, attorney for plaintiffs in the above entitled action, which was brought to foreclose a mortgage for \$6,500, showing that one Martin Sutton, a defendant, who was served with a summons and complaint in said action on January 21, 1920, died on February 3, 1920, and that said Sutton's undivided interest in the real estate covered by the mortgage is one one hundred and fiftieth part. The premises were assessed in 1919 at \$10,000. I can see

no reason why your Honorable Board may not properly make a determination that said commissioners do not deem it for the best interests of the State to pay off the mortgage sought to be foreclosed.

Respectfully submitted,

CHARLES D. NEWTON,

Attorney-General.

STATE OF NEW YORK,

OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, *March 3, 1920.*

COMMISSIONERS OF THE LAND OFFICE.

STANDING COMMITTEE.

In the Matter of the Application of SEA-GOLD IMPROVEMENT CO., INC., for Grant of Land Under Waters of Gravesend Bay, in the Borough of Brooklyn, Kings County, for Beneficial Enjoyment.

To the Commissioners of the Land Office:

GENTLEMEN.—The above entitled application with a remonstrance by The City of New York, having been referred to the standing committee on the hearing of remonstrances, the said committee respectfully reports thereon as follows:

A hearing was called for February 4, 1920, at which time Mr. James C. McLear of counsel for applicant appeared, but The City of New York was not represented and the hearing was adjourned to March 3, 1920; when Mr. James C. McLear and Mr. Harvey O. Dobson appeared for applicant, and Mr. John J. Mead appeared for The City of New York.

It developed at this hearing that the real object of the remonstrance was to safeguard the interests of The City of New York under the provisions of section 83 of the Greater New York charter.

The following clause inserted in all grants of land under water in The City of New York was read:

"These letters-patent are issued, however, subject to such right, title and interest as The City of New York has under the provisions of its charter to lands under water in front of projected piers, if any such there be, and such right, title and interest, if any, are excepted from this grant and reserved to said city."

Counsel for The City of New York expressed the opinion that the insertion of above quoted clause in the grant would protect the interests of the city.

We recommend that the remonstrance be overruled and that the application take the usual course of uncontested applications.

Respectfully submitted,

CHARLES D. NEWTON,

Attorney-General.

JAMES L. WELLS,

Treasurer.

FRANK M. WILLIAMS,

State Engineer and Surveyor.

STATE OF NEW YORK,

OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, April 15, 1920.

BEFORE THE STANDING COMMITTEE ON THE HEARING OF REMONSTRANCES OF THE COMMISSIONERS OF THE LAND OFFICE.

In the Matter of the Application of EDGAR F. LUCKENBACH for Grant of Land under water of Hempstead Harbor at Sands Point, Nassau County, for beneficial enjoyment.

To the Commissioners of the Land Office:

GENTLEMEN.—The above entitled application having been referred to the Standing Committee, together with the remonstrance of the estate of Mary A. Fraser and Martha W. Mott Fraser, by Wysong and Wysong, their attorneys, and also the protest of L. L. Duerden of Port Washington, we have the honor to report that hearings were had on March 17 and April 7, 1920, at neither of which hearings did the protestant Duerden appear.

On the hearing held this day there was presented to your Committee the stipulation entered into between Wysong and Wysong,

attorneys for the Fraser remonstrants, and the attorneys for the applicant, that said remonstrances are withdrawn upon condition that any patent for the lands under water herein applied for contain the condition "that there shall not be erected upon that portion of the lands so granted which lies between high and low water mark any solid structures which will prevent the full and natural wash of the sands along the beach."

Your Committee would therefore recommend that this application take the usual course of uncontested applications, and that any letters patent which may be issued shall contain the condition mentioned in said stipulation.

Respectfully submitted,

CHARLES D. NEWTON,
Attorney-General.

JAMES L. WELLS,
State Treasurer.

FRANK M. WILLIAMS,
State Engineer and Surveyor.

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, *April 29, 1920.*

BEFORE THE STANDING COMMITTEE OF THE COMMISSIONERS OF
THE LAND OFFICE ON THE HEARING OF REMONSTRANCES.

In the Matter of the Application of DANIEL P. DUFFIE, for a grant of land under the waters of Kill Von Kull, at West New Brighton, Richmond County, for the purpose of beneficial enjoyment.

To the Commissioners of the Land Office:

GENTLEMEN.—The above entitled application having been referred to your committee at a meeting of the Commissioners of the Land Office, held March 17, 1920, your committee have to report as follows:

That no remonstrance has been filed to this application except

the Corporation Counsel of the city of New York, in a communication to your Honorable Board, dated October 20, 1919, that he has received from the office of the President of the Borough of Richmond, a communication, dated October 11, 1919, in which it is requested that there be reserved in any letter patent that may be issued to this applicant the right of the city to use a strip of land 10 feet wide along the westerly boundary of the lands applied for from Richmond Terrace to the pierhead and bulkhead line for the extension and maintenance of the existing sewer and requesting that in any such letters patent such reservation of an easement in said strip 10 feet wide along the westerly boundary of the lands applied for from Richmond Terrace to the pierhead and bulkhead line be made for the extension and maintenance of the existing sewer.

Daniel P. Duffie, the applicant, and his wife, Adele P., have consented their release to the People of the State of New York, dated April 26, 1920, of the lands granted to said Daniel P. Duffie, on May 2, 1907, being substantially the same premises embraced in the present application and under which no improvements were made within the time limit therein mentioned surrendering said grant and declaring it to be their intention to surrender all their rights under said former patent of 1907, subject to acceptance by the Commissioners of the Land Office, and has also accepted to be without prejudice to this present application for a new grant and said surrender to take effect only upon a simultaneous order of the Land Board issuing a new grant under the present application, which release has been approved by the Attorney-General as to form and manner of execution.

A hearing before the Standing Committee was held on April 7, 1920, wherein it appeared that the People of the State still have certain reserved rights under a water grant made in 1877 to Daniel Pelton and others, out to the pierhead and bulkhead line of the pier, and it appearing that this present application is made for lands under water between the pierhead and bulkhead line of the pier further out into the stream to a new pierhead and bulkhead line it has, therefore, been agreed on behalf of the attorney for the applicant that in any patent that may be issued for the lands now applied for, the reservation clause therein shall also reserve to the People of this State full and free right, liberty and privilege of

entering upon and using all and every part of the unappropriated lands under water granted February 15, 1877, to Daniel Pelt and others, in as ample a manner as they might have done had this power and authority not been given, always excepting such parts thereof as are actually occupied and covered by structures, docks and buildings of a substantial character and such parts of said premises as have been actually filled in and reclaimed from low or marsh lands, provided that unless the improvements above named are completed within five years from the date of the new patent to be made this new grant and the grant of so much of the lands as shall then be unappropriated under said former grant of 1877 shall cease and determine and become null and void.

We further recommend that any new patent that shall issue shall also contain a reservation of an easement in favor of the city of New York to use a strip of land 10 feet wide along the westerly boundary of the lands applied for from Richmond Terrace to the new pierhead and bulkhead line for the extension and maintenance of the existing city sewer.

Respectfully submitted,

CHARLES D. NEWTON,
Attorney-General.

FRANK M. WILLIAMS,
State Engineer and Surveyor.

JAMES L. WELLS,
State Treasurer.

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, *May 10, 1920.*

BEFORE THE COMMISSIONERS OF THE LAND OFFICE

In the Matter of the Petition of EDWARD DEVINE and OLIVE, his wife, of the City of Buffalo, for the release of certain escheated land in said city.

To the Commissioners of the Land Office:

GENTLEMEN.—The petition herein shows that the petitioners are husband and wife; that on or about August 1, 1917, the

red into a parol agreement with Emily L. Herendeen of Buffalo, whereby said Emily agreed to purchase from the then owners certain real estate in the city of Buffalo, situate on the west side of Longnecker street, 390 feet north of William street, being 30 feet front and rear, by 115 15/100 feet in depth, for the sum of twenty-one hundred dollars (\$2,100), and to sell the same to said petitioners and permit them to pay her for the same on easy terms; that this agreement was made by said Emily, not for her own personal benefit, but because she had been acquainted with the petitioner, Edward Devine, nearly all his life, having been his father's housekeeper for many years and had performed the part of mother to him in his boyhood, and with the intention to assist the petitioners who were then recently married.

That she said Emily L. Herendeen did purchase the said premises for the sum of twenty-one hundred dollars (\$2,100) from John Brundage and wife and Jennie Owen by deed dated August 1, 1917, and agreed with the petitioner to convey the same to him upon the assumption of certain mortgages thereon and the payment of the balance; that the petitioners at that time paid for said purchase price fifty dollars (\$50.00) and immediately entered into possession and paid certain sums thereafter, made improvements, paid taxes and also interest on mortgages and still remained in possession of said premises.

That she said Emily L. Herendeen died in the city of Buffalo, on September 6, 1917, leaving a will dated June 1, 1917, devising a certain real estate in a house and lot on North Ogden street, Buffalo, to Edward Devine, Sr., but said will makes no reference to the Longnecker street property and contains no residuary clause so that the testator died intestate as to the Longnecker street property then standing in her name. Her will was admitted to probate by the Surrogate of Erie County, on or about April 22, 1918, and letters testamentary were issued to executors therein named. Said Emily L. Herendeen left no known heirs at law; she was married, however, having a husband named Ross Herendeen who was of intemperate habits, given to roaming about the country, with whom she had not lived for years. There was no record of such marriage.

The petitioners herein subsequently brought an action in the

Supreme Court of Erie County against John P. and Harriett Sherrard, as executors of the last will of Emily L. Herendeen, deceased, Ross Herendeen and others, and also the unknown heirs of Emily L. Herendeen, deceased. This cause was tried by the court without a jury at a Trial Term, held in Erie County, opening March 3, 1919, upon the issues of fact raised by the answer of defendants-executors and of the infant, Elsie Herendeen Dye, and upon due proof of the personal service of summons upon two other defendants and service of said summons by publication upon the defendants Ross Herendeen and the unknown heirs of Emily L. Herendeen, deceased, and others, whereupon, Mr. Justice B. Sears decided that on August 1, 1917, Emily L. Herendeen purchased the premises hereinbefore mentioned from J. M. Brundage and others, then owners, for the sum of twenty-one hundred dollars (\$2,100), paying down two hundred dollars (\$200) and executing to one Klemp, a vendee in possession, under a contract to purchase, her bond for two hundred seventy-five dollars, (\$275), payable in one year secured by a mortgage as a second lien, and also by executing her bond, dated August 1, 1917, to said Brundage for sixteen hundred twenty-five dollars (\$1,625), payable in certain installments; that the purchase of said premises by said Emily was because of a parol agreement she entered into with the plaintiffs to purchase said premises for them and allow them to pay for the same on easy terms and that when by said monthly payments the purchase price should be reduced to sixteen hundred twenty-five dollars (\$1,625), she would convey said premises by warranty deed to the plaintiffs, they to execute and deliver to her their bond therefor, payable in monthly installments secured by a mortgage; that under said agreement the plaintiffs were to have immediate possession of the premises and were to keep the same in repair and pay taxes thereon; that plaintiffs had paid certain installments; that thereafter said Emily L. Herendeen died and said real estate was not disposed of by her will; that she left no known heirs; that there is no power of sale contained in her will and that her executors have no authority therein to convey said premises to the plaintiffs for the purpose of fulfilling said contract, and that there was due upon the mortgage to Brundage sixteen hundred fifty-five dollars and five cents (\$1,655.05), and on

the Klemp mortgage four hundred twenty-nine dollars and fifty-three cents (\$429.53); and besides said court finds as conclusions of law the plaintiffs are entitled to the specific performance of said contract and to a deed conveying said premises from the unknown heirs of Emily L. Herendeen, deceased upon payment to her executors of the sum of one hundred twenty-four dollars and fifty-three cents (\$124.53), and upon payment of the mortgage executed to Albert Klemp, of two hundred seventy-five dollars (\$275), with accrued interest thereon, and upon the assumption of said bond and mortgage executed by Emily L. Herendeen to J. Maynard Brundage, on June 2, 1919.

Transfer taxes upon the estate of Emily L. Herendeen have been fixed and determined by the Surrogate of Erie County, and the executors of her estate have paid to the State Comptroller the sum of two hundred twelve dollars and eighty-seven cents (\$212.87), the amount of such transfer tax, on April 22, 1920.

Section 66 of the Public Lands Law provides that

“Where lands have been escheated to the state, and the person last seized was a citizen or capable of taking and holding real property, the commissioners of the land office shall fulfil any contract made by such person or by any person from whom his title is derived, in respect to the sale of such lands, so far only as to convey the right and title of the state, pursuant to such contract, without any covenants of warranty or otherwise, and shall allow all payments which may have been made on such contracts. If any part of such escheated land has been occupied under a verbal agreement for the purchase thereof, and the occupants have made valuable improvements thereon, such agreement shall be as valid and effectual as if it were in writing.”

There is, however, no absolute proof that Emily L. Herendeen died without heirs.

In accordance with the judgment of the Supreme Court it will be seen that if the contract is carried out through a release by the Commissioners of the Land Office, the estate of Emily L. Herendeen will receive a small sum of money which she advanced on the purchase of the property and which has not been repaid to

her by the petitioners. This amount is one hundred twenty-four dollars and fifty-three cents (\$124.53). If the contract is not carried out it is equally certain that foreclosure and a forced sale of the property will result and the estate will receive nothing and might be charged with a deficiency, as the margin above the mortgages is very small.

I would, therefore, recommend that your honorable board grant the relief prayed for, pursuant to section 66 of the Public Lands Law, by conveying such right, title and interest as the State may have to the petitioners herein, pursuant to their contract with Emily L. Herendeen, by quit-claim letters patent for a nominal consideration.

Respectfully submitted,

CHARLES D. NEWTON,

Attorney-General.

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, May 25, 1920.

BEFORE THE COMMISSIONERS OF THE LAND OFFICE

In the Matter of the Application by WILFRED D. STREETER, of Lockport, New York, for the advertisement and sale of the West sixty-eight feet, eleven inches of Lot M on the south side of Mulberry Street, in the City of Lockport, Niagara county, which was acquired by the State from the Comptroller's Tax Sale of 1895.

To the Commissioners of the Land Office:

GENTLEMEN.—This is an application for the advertisement and sale of tax lands in the City of Lockport, the same having been sold to the State in 1895 for the resident tax at a cost to the State to May 1, 1920, of \$8.62.

Mr. Streeter applies as fee owner. However, it appears that Mr. Streeter had no interest in this property at the time of the tax sale in 1895, in fact he had no interest in the property until 1902 when he purchased a mortgage upon this property executed

on November 30, 1887, for the sum of three hundred dollars (\$300), which mortgage Mr. Streeter afterwards caused to be reclosed and on January 24, 1905, bid in said property on the mortgage foreclosure sale for one hundred dollars (\$100).

Mr. Streeter also states that he has paid a pavement tax on Mulberry street and general taxes on said property since 1905. He cannot, therefore, regard Mr. Streeter as a fee owner of the property at the time of the tax sale in question but recognize that he may have some equities by reason of his payment of taxes and assessments and would, therefore, recommend that these premises be appraised and thereafter that the property be sold for such consideration as to your Honorable Board shall seem just and proper.

Respectfully submitted,
CHARLES D. NEWTON,
Attorney-General.

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, May 25, 1920.

BEFORE THE COMMISSIONERS OF THE LAND OFFICE

in the Matter of the Application of LUCIAN BRENON, for the purchase of a portion of the bed of the Mohawk River in the City of Rome, N. Y., cut off by the location of the improved Erie Canal,

to the Commissioners of the Land Office:

GENTLEMEN.—I return the above informal application of Lucian Brenon for the purchase of that portion of the bed of the Mohawk river in the City of Rome cut off by the location of the improved Erie Canal, together with a copy of my letter of May 21, 1920 to Mr. Brenon, in which I suggested to him that he should file an application in regular form for grant of land under water as riparian owner.

Respectfully submitted,
CHARLES D. NEWTON,
Attorney-General.

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, *May* 26, 1920.

BEFORE THE COMMISSIONERS OF THE LAND OFFICE

In the Matter of the Application of GEORGE W. DENNY for the release of certain escheated lands in the City of Mt. Vernon, Westchester county, of which his wife, Emma Denny, died seized without heirs.

To the Commissioners of the Land Office:

GENTLEMEN.— The petition and supplemental petition herein of George W. Denny shows that he is the surviving husband of Emma Denny who, by deed dated July 8, 1919, was the grantee named in a deed by Lawrence B. Holler, Jr., and wife, recorded Liber 2204 C. P. 143, in Westchester county, conveying the easterly 25 feet of lot 704 on a certain map of the Village of Mt. Vernon made by Andrew Findlay, Surveyor, dated June 7, 1851, said lot beginning on the north side of West Seventh street distant 105 feet west of South Seventh avenue, thence northerly 100 feet, thence westerly 25 feet, thence southerly 100 feet and thence easterly along East Seventh street 25 feet to the place of beginning. Said premises were conveyed to her subject to a mortgage for three thousand two hundred and fifty dollars (\$3,250) still a lien upon the mortgage premises; that said premises are of the value of sixty-five hundred dollars (\$6,500); that said Emma Denny died in the City of Mt. Vernon on October 30, 1919, seized of said premises and without leaving any heirs at law whatever. She left no other property of any kind.

The petitioner alleges, and his statements in this regard are corroborated by the affidavits of two other disinterested persons, that during her life-time the said Emma Denny stated on many occasions she had no living relatives, either here or abroad, and that other than her husband she was alone in the world; that she had been reared in a Convent because she had no relatives with whom she could reside as there were none living.

The petitioner alleges further that he always turned his salary over to his wife from the time he was married from which the family living expenses were first deducted and the balance placed to her account in a Savings Bank and that a substantial part of the money used for the purchase of said property was money that was put aside from petitioner's salary and added to any money which his wife may have had in her own right; that the precedent had suggested to him that title be taken in the names of both of them but desiring to give his wife all the protection he could in case of his prior death and petitioner being unaware at that time that where a husband and wife take title by the entirety title passes to the survivor, petitioner suggested that she should take title in her own name for her protection, and that it was agreed between his wife and himself that she would make a will in his favor in case she should predecease him which she failed to do.

The petitioner was married to his wife in New York City on July 8, 1919; he is a printer by trade and a poor man and has expended money in repairs to said house since its purchase. The petitioner is solely dependent upon his daily earnings for his livelihood.

The Public Lands Law authorizes that where an application for the release of escheated lands shall be made by the surviving husband and the Commissioners of the Land Office see fit to grant the same the grant shall be made without consideration. We would recommend that such action be taken in this case.

Respectfully submitted,

CHARLES D. NEWTON,

Attorney-General.

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, June 1, 1920.

BEFORE THE COMMISSIONERS OF THE LAND OFFICE.

In the Matter of the Petition of MAY MARTIN, for the release of certain land situate at the northeast corner of One Hundred and Eighth Street and Madison Avenue in the City of New York, being a lot twenty (20) feet on One Hundred and Eighth Street by Fifty (50) feet on Madison Avenue, pursuant to the provisions of Chapter 597 of the Laws of 1919.

To the Commissioners of the Land Office:

GENTLEMEN.— Chapter 597 of the Laws of 1919 authorizes your Honorable Board to release to May Martin of New York city, all of the interest of the State in and to a plot of land on the corner of One Hundred and Eighth street and Madison avenue, New York city, being a lot twenty (20) feet by fifty (50) feet eleven (11) inches. The petition and supplemental petition herein, together with an abstract of title prepared by one of my title examiners, and the records of the Tax Bureau of the City of New York show that on October 6, 1836 Archibald Watt and wife of New York city conveyed to one William T. Bayley of New York city two lots of land, including the premises in question, expressing a consideration of \$600 therefor. (See deed recorded in New York Register's office, Liber 369 of Deeds, page 19). On the same day, William T. Bayley of New York city, painter, gave a purchase money mortgage to Archibald Watt for \$380 on said two lots, said mortgage being recorded in Liber 210 of Mortgages, page 73. Said mortgage was assigned by Archibald Watt to Jacob Geissenhainer by assignment dated April 23, 1860, recorded in Liber 662 of Mortgages, page 522, expressing a consideration of \$1,150, and on April 1, 1862 Geissenhainer, as assignee of said mortgage, commenced a foreclosure by advertisement, and the affidavits of said mortgage sale were recorded September 5, 1896 in Liber 54 of Mortgages, 403, section 6, showing that a sale was made on June 30, 1862 and that both lots were sold to Thomas Watt for \$210 each. That William T. Bayley, the mortgagor, died

before the date of said notice, and that Frederick W. Geissenhainer, attorney for said Jacob A. Geissenhainer, had ascertained that said Bayley had died in New York city intestate, but that no letters of administration upon his estate had been granted. That said Bayley was an alien resident; that he was personally acquainted with him, and verily believes that he was not at the time of his death a United States citizen. Therefore, "believing that his lands had upon his death escheated to the People of the State of New York, on April 2, 1862 he deposited a copy of said notice of sale in the General Post Office of the City of New York enclosed in a postpaid wrapper directed to the People of the State of New York at the office of the Attorney-General of the State at Albany, New York. That Edward Pettinger, the auctioneer who conducted the sale, has since died, and for that reason could not now on the date of this verification by Frederick W. Geissenhainer, to wit: September 2, 1896, make his affidavit respecting the sale as required by statute."

Thomas Watt, the purchaser on said foreclosure sale died on November 9, 1876 leaving his widow, Julia E. Watt, and his children, Thomas L. Watt, Archibald Watt, Julia Morris and Grace Watt, his only heirs at law. Julia E. Watt, the widow, died prior to the year 1884. On September 2, 1896, Jacob A. Geissenhainer gave a confirmatory deed to the four children of Thomas Watt, deceased, recorded in Liber 32, M. P. 494, section 6. Archibald Watt died June 19, 1906 leaving a will devising all his real estate to his sister, Grace Watt. Thomas L. Watt died intestate prior to 1914, leaving him surviving, his widow, Annie S. Watt, and his children, Annie Watt Keator, Thomas L. Watt, Grace F. Watt and James L. Watt, his only heirs at law. Grace Watt married one Thomas and died intestate on August 15, 1914 without issue, leaving her surviving her sister, Julia M. Curtis, formerly Julia H. Morris, and the said four children of her deceased brother, Thomas L. Watt. Julia M. Curtis again married one Lawrence, and by deed dated November 10, 1914 conveyed all her outstanding interest to May Martin by deed recorded in Liber, 189 C. P. 79, Section 6. On May 28, 1915, May Martin procured a deed from Annie Watt Keator and Thomas L. Watt and from Annie S. Watt, the widow of Thomas

L. Watt, deceased, recorded in *Liber*, 186 C. P. 434, and on the same day she procured a deed from the Special Guardian of Grace F. Watt and James L. Watt, infants, in consideration of \$375, recorded in *Liber*, 186 C. P. 441. The premises in question have been sold many times for taxes, to wit: on March 18, 1874 and also in the years 1881, 1883, 1886, 1905, 1909 and 1914, and it is claimed that these tax sales have been acquired by May Martin, but no proof of this fact has been submitted.

In 1862, when the mortgage from Bayley to Watt was foreclosed by Geissenhainer there was no statute authorizing the appearance of the People in an action to foreclose the mortgage to cut off a possible escheat. Therefore, if an escheat did occur owing to the death of William T. Bayley without heirs, said foreclosure did not cut off any interest the State might have acquired.

From an examination of old New York City directories, it appears that there was a W. T. Bayley, painter, residing at 142 Leonard Street, New York City, in 1835. His name is not to be found subsequently in the New York City directory. Another William T. Bayley resided in 1837 at Amos Street and Sixth Avenue.

Records of vital statistics of the New York City Board of Health show that one William T. Bailey, born United States, died January 22, 1838 at 104 William Street, New York City, aged 84, of pneumonia, and also that another William T. Bailey, birthplace New Jersey, died at Fourth Street, New York City, June 30, 1845, aged 32, of smallpox. It has seemed almost impossible to determine which one, if either, of the last two named persons was identical with the owner of these premises. An article in the New York Herald of Sunday, November 16, 1902 states that no one knows who is the owner of this property. That according to the report of an examiner in one of the New York title companies, Bailey "losing fortune and health and while intoxicated, was brought to court and sentenced to Blackwell's Island, where he died, and was buried in Potter's Field. His name, it is alleged, was Thomas Bailey, and he was a poor painter who began his career by saving his money until he had enough to buy the lots."

The exact date of death of William T. Bayley, the owner of the premises in question, is therefore unknown, nor is it known whether he left heirs at law.

The property in question is assessed by the City of New York at \$9,500. The petitioner herein only offers to pay a nominal consideration for a release.

The premises have always been vacant lands, and no adverse possession against the State has apparently been had. It is true that a fence was built around the lots, but this fence was not built by any person claiming ownership but by the City of New York and an assessment levied therefor against the property.

In view of the uncertainty of the State's title to this property by reason of escheat, I would recommend that a release be made to the petitioner, pursuant to Chapter 597 of the Laws of 1919, upon such consideration and upon such terms and conditions as to your Honorable Board shall seem just and proper.

Respectfully submitted,

CHARLES D. NEWTON,

Attorney-General.

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, *June 21, 1920.*

BEFORE THE STANDING COMMITTEE ON THE HEARING OF REMONSTRANCES OF THE COMMISSIONERS OF THE LAND OFFICE

IN the Matter of the Application of FREDERICK R. BARNHEISEL for a Grant of Land Under Water of Niagara River, at North Tonawanda, Niagara County, New York, for Beneficial Enjoyment.

To the Commissioners of the Land Office:

GENTLEMEN.—This is an application for a water grant in front of applicant's uplands out to the harbor line established by the Secretary of War.

A remonstrance was filed by Messrs. Gratwick and Crane, lumber dealers and owners of property adjoining the lands of the applicant on the north side thereof, upon the ground that in the Niagara river off the Gratwick dock which does not extend out to the harbor line there lies a rock ledge or reef parallel with the dock and about 50 feet distant therefrom extending practically

along the entire frontage of the Gratwick property, over which reef there is insufficient water for lumber vessels to pass and consequently that such vessels are obliged to reach the Gratwick dock by passing over the deeper water in front of the Barnheisel property to the Gratwick dock behind said reef.

The matter was heard by your committee at Buffalo on May 12, 1920, where several witnesses in behalf of the remonstrants were examined and where the remonstrants claimed that they should not be put to the expense of procuring a new water grant in front of their property to the harbor line and extending their dock to that harbor line.

It appeared on the hearing that the lumber vessels used by the remonstrants drew from 14 feet to 14 feet 6 inches of water, and remonstrants claimed a vested right by common law or by long established usage prior to the establishment of said harbor line, to pass over the lands under water adjacent to applicant's uplands and well within the established harbor line, and they insist that the State has no power to make a grant to this applicant which would tend to destroy or impair the usefulness of their present dock and prevent their use of the navigation of the water over the lands now applied for by Barnheisel.

The remonstrants claimed on the argument but did not prove that the reef or shoal in front of their lands extended out beyond the harbor line in front of their uplands. If this were so then the remonstrants should have appealed to the Secretary of War for a change in the said harbor line, which they have not done. But this claim is inconsistent with their map filed with their remonstrance and it became important to consult the United States Government Surveys of said harbor. A map of Niagara river showing proposed location of harbor lines at North Tonawanda, N. Y., compiled from official U. S. Surveys in 1895 to 1899, made under the direction of Major Thomas W. Symons, Corps of Engineers, U. S. Army, which proposed harbor lines were duly approved by Elihu Root, Secretary of War, on November 17, 1899, and wherein it was stated that "these harbor lines to be a coincident bulkhead and pierhead line, with the understanding that no filling to be washed away by the river currents shall be deposited beyond the natural shore line, except it be confined within suitable permanent bulkheads," and also a letter from the Secretary

of War to the Speaker of the House of Representatives, dated January 24, 1914, transmitting reports from the Chief of Engineers, U. S. Army and from Col. W. M. Black and Col. J. C. Warren of the Corps of Engineers (H. R. Document 658, 63d Congress, 2d Session). on survey of harbor at Tonawanda and North Tonawanda with a view to securing a depth of 23 feet of water in the Niagara river, with map accompanying same, show that from Lake Erie there then existed an 18 foot channel or waterway down the Niagara river to the Tonawanda Iron and Steel Company's plant at North Tonawanda and from there further down the river there was natural water to a depth of over 18 feet to the lands of Barnheisel, the present applicant; that the then "existing project for the improvement of Tonawanda harbor and Niagara river provides for a channel 400 feet wide and 18 feet deep at mean river level from Lake Erie to the north line of Tonawanda;" that "along the docks below the Tonawanda Iron and Steel Company's front there is a depth of from 12 to 15 feet at mean river level and this part of the channel of the project has not been deepened because commercial interests do not as yet require it."

These maps also show that while within the harbor line in front of the remonstrants Gratwick and Crane, the soundings show in places less than 15 feet of water, the soundings outside of said harbor line in front of the Gratwick and Crane property show considerably over 15 feet of water at all points for a distance of over 200 feet westerly therefrom in the river and that there does exist a rock ledge outside the present Gratwick dock the same must be entirely within the harbor line established by the U. S. Government in 1899, which fact is admitted by the remonstrants and is shown on their map accompanying their remonstrance.

Your Committee are, therefore, of the opinion that the public right of navigation will not be injuriously affected by making the grant applied for, that the remonstrants have no vested right of access over the lands under water in front of applicant's uplands and that the said remonstrants should, if they deem it necessary to the conduct of their lumber business, apply for and purchase a water grant in front of their uplands to said harbor line and then extend their own docks to said harbor line.

We, therefore, recommend that the remonstrants be overruled and that this applicant take the usual course of uncontested applications.

The applicant has submitted a deed of surrender duly executed by him and approved by the Attorney-General as to form and manner of execution of rights under three former commerce grants of lands under water, one dated July 12, 1877, to John Simson, one dated January 25, 1883, to Edwin Goodrich and Arlington A. Bellinger and another dated October 6, 1885, to Martin Reisterer, so far as they affect the lands now or formerly under water now applied for, subject to acceptance thereof by your Honorable Board, which surrender shall take effect only upon the order of the Commissioners of the Land Office for the issuance of the new grant for beneficial enjoyment now applied for.

We, therefore, also recommend the acceptance of this surrender and that a grant be made at the value at which the same shall be appraised by the official appraisers of the Board.

Respectfully submitted,

CHARLES D. NEWTON,
Attorney-General.

JAMES L. WELLS,
State Treasurer.

FRANK M. WILLIAMS,
State Engineer and Surveyor.

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, July 7, 1920.

BEFORE THE COMMISSIONERS OF THE LAND OFFICE

In the Matter of the Application of St. Luke's Hospital for grant of land under waters of the Bay of New York and in the Borough of Richmond, in the City of New York, for restricted beneficial enjoyment.

(Proposed resolution.)

Whereas, At a meeting of the Commissioners of the Land Office held at the office of the Comptroller of the State of New

York, in the City of Albany, N. Y., on Wednesday, June 2, 1920, at 2:30 o'clock in the afternoon, the matter of the application of St. Luke's Hospital for a grant of lands under water of the Bay of New York, in the Borough of Richmond, for restricted and beneficial enjoyment, came upon for consideration and resulted in an order by this Board that "upon payment within three months from this date of \$8,000 on account of grant and \$5 patent fee, that letters patent issue to St. Luke's Hospital for the lands under water described in map 'A' and amended description;"

And the matter having been proposed for reconsideration at this meeting of the Land Board, and having been reconsidered, it is Resolved, That upon payment within three months from this date of \$8,000 on account of grant and \$5 patent fee, letters patent issue to St. Luke's Hospital of the following described lands:

"All that tract or parcel of land situate in the Borough of Richmond, County of Richmond, State of New York, bounded and described as follows:

"Beginning at a point in the original high water line of New York Bay, said point being in the boundary line between the lands of St. Luke's Hospital and the lands now or formerly of the Richmond Ice Co., said point being the northwesterly corner of a grant of lands under water to Oscar B. Janin, dated May 13, 1890, said point being N. 58 degrees 27 minutes 37 seconds E. 128 feet from the intersection of the boundary line between the lands of the St. Luke's Hospital and the lands now or formerly of the Richmond Ice Co., and the easterly line of Edgewater St., formerly Bay St., said point in the street line being N. 40 degrees 0 minutes 57 seconds W. 148.83 feet from monument No. 682 of the Borough of Richmond traverse; running thence along the original high water line N. 48 degrees 42 minutes 23 seconds W. 150.50 feet to the boundary line between the lands of St. Luke's Hospital and the lands now or formerly of the Pouch Terminal Co., said point being the southwesterly corner of a grant of land under water to Constantine W. Benson dated December 30, 1897; running thence along the southerly boundary line of said grant on the following two courses and distances: N. 59 degrees 02 minutes 37 seconds E. 125.00 feet, N. 40 degrees 32 minutes 37 seconds E. 557.00 feet; thence S. 38 degrees 44 minutes 30 seconds

E. 348.05 feet to a point; thence S. 40 degrees 32 minutes 37 seconds W. 519.00 feet along the prolongation of the northerly boundary line of the aforementioned grant to Oscar B. Janin and along said northerly boundary line; thence further along said boundary line S. 58 degrees 27 minutes 37 seconds W. 101.33 feet to the point of beginning, containing 221,749 square feet more or less.

"Excepting and reserving for the period hereinafter mentioned, out of the lands above described, a strip of land ten feet wide along the northerly line of the above described lands, practically as shown upon the State Engineer's application map on file with this application, for the purpose of building an extension to the existing sewer owned and maintained by the City of New York, such exception and reservation to continue only until such time as said existing sewer is connected with the city sewer in Maple Avenue, said strip being bounded and described as follows:

"Beginning at the center of the outlet of the existing sewer, running thence N. 49 degrees 27 minutes 23 seconds W. 5.00 feet to a point; thence N. 48 degrees 13 minutes 00 seconds E. 36.16 feet to the angle point in the northerly boundary line of the lands above described lands; thence along said boundary line N. 40 degrees 32 minutes 37 seconds E. 557.00 feet to the northeasterly corner of the lands above described; thence S. 38 degrees 44 minutes 30 seconds E. 10.18 feet along the easterly boundary line of the above described lands; thence parallel to and distant 10.00 feet from said northerly boundary line of the above described lands S. 40 degrees 32 minutes 37 seconds W. 555.11 feet to a point; thence S. 48 degrees 13 minutes 00 seconds W. 36.16 feet to a point; thence N. 49 degrees 27 minutes 23 seconds W. 5.00 feet to the point of beginning, containing 5,917 square feet, more or less. All bearings are referred to the true meridian.

"The premises hereby granted and first above described being intended to be the same lands which were granted by letters patent to Abby A. White, dated October 3, 1871, by substantially the same description."

The following report and forms of letters-patent for water grants were presented:

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, August 4, 1920.

To the Commissioners of the Land Office, Albany, N. Y.:

GENTLEMEN.—At a meeting of the Commissioners of the Land Office held April 2, 1919, the State Engineer and Surveyor, Attorney-General and Secretary of State were appointed a committee to consider the forms of letters patent then being used in granting lands under navigable waters, and certain criticisms thereto referred to in a communication to you from the Attorney-General, dated March 28, 1919 (See pp. 114, 115, proceedings of Commissioners of Land Office, 1919).

Your committee and the members thereof have had numerous conferences and report as follows:

1. That two general forms of letters patent should be adopted:

(a) One for the purpose of beneficial enjoyment so as to give to the Patentee the greatest latitude in improving the lands under water granted, while at the same time providing that on failure to so improve and maintain the improvement, the letters patent shall become null and void.

(b) One for the purpose of promoting the commerce of this State by building and maintaining public docks, wharfs, piers and slips. This would give the public a right of user on payment of dockage or wharfage. The same conditions as to improvements are incorporated.

2. That the terms should be such as to command the best possible price for lands granted and to establish a value for purposes of taxation.

3. The so-called "recapture clause" for the benefit of the State has been revised and retained.

4. A similar clause for the benefit of the City of New York has been eliminated from the general form. The City of New York desires a clause similar in form to that now submitted for the State, when a grant affects lands in that city.

5. Copies of such forms are submitted herewith.

Dated July 17, 1920.

Respectfully submitted,
 FRANK M. WILLIAMS,
State Engineer and Surveyor.
 CHARLES D. NEWTON,
Attorney-General.
 FRANCIS M. HUGO,
Secretary of State.

FORM OF PATENT FOR THE PURPOSE OF BENEFICIAL ENJOYMENT

THE PEOPLE OF THE STATE OF NEW YORK, BY THE GRACE OF
 GOD, FREE AND INDEPENDENT.

To All To Whom These Presents Shall Come, Greeting:

Know ye, that pursuant to a resolution of the Commissioners of our Land Office, dated the day of 19...., and in consideration of the sum of dollars (\$.....), lawful money of the United States, paid by of

(Insert name of street and number)

in the of County of and State of, and upon the conditions hereinafter expressed, we have given and granted and by these presents do give and grant unto the said, the owner of the lands adjacent to the lands hereinafter described, his grantees, heirs, devisees or successors in interest (hereinafter referred to as the "patentee"), the following described lands under water, to wit:

(Here insert description)

These letters patent are issued, however, and this grant is made and accepted:

First.— Upon the express condition that if at the end of five

years from the date of these presents or at any time thereafter, any part of said lands hereby granted are not improved as follows:

(a) by filling in the lands under water hereinabove described; or

(b) by building and maintaining thereon a bulkhead or retaining structure and filling in back of same; or

(c) by erecting and maintaining on said lands upon piles or other supports, a building or buildings, a structure or structures, or a pier or piers, of a substantial character; or by maintaining a dry-dock on said lands; or

(d) by dredging and maintaining on said lands a slip or or basin, or slips or basins, but only of such dimensions as may be requisite and necessary for the proper approach to and landing on said uplands or a portion of the lands hereinabove described and improved as aforesaid;

(which shall be known as "improvements"), then these letters patent and this grant shall become null and void as to the part not improved; and no right, title or interest in and to the lands hereinabove described not so improved shall vest in the said "patentee" or accrue by virtue of these presents; and the People of the State of New York may thereupon re-enter into and become possessed of the lands hereinabove described or any part thereof which have not been or which are not then so improved, without any liability.

Second.— Upon the express condition that if the State of New York shall at any time hereafter acquire said premises and "improvements," or a part or portion thereof, by appropriation or otherwise, the liability of the State shall be limited to the amount paid by said "patentee" to the State for this patent, or a proportionate part thereof, together with the expenses necessarily incurred by the "patentee" for the acquiring of this patent which are hereby fixed at the sum of \$350, and, also, the value of the "improvements" on said premises, or the proportionate part thereof which may be acquired. The value of such "improvements" if all are so acquired, or such proportionate part of the amount paid by said "patentee" for this patent and of the value of such "improvements" on a portion of such lands which may be so acquired by the State, and all damages, if any, to the

remainder of such "improvements" which may not be so acquired, to be paid by the State of New York, shall be determined as provided by the Legislature authorizing such acquisition.

(Here insert any other special restrictions, reservations or conditions.)

IN TESTIMONY WHEREOF, we have caused these our letters to be made patent, and the Great Seal of our said State to be hereunto affixed. Witness
 Secretary of State of our said State at our City of Albany, the day of, in the year of our Lord, one thousand nine hundred

Passed the Secretary's office the day of,
 19....

.....
Deputy Secretary of State.

FORM OF PATENT TO PROMOTE THE COMMERCE OF THIS STATE

THE PEOPLE OF THE STATE OF NEW YORK, BY THE GRACE OF
 GOD, FREE AND INDEPENDENT.

To All To Whom These Presents Shall Come, Greetings

Know ye, that pursuant to a resolution of the Commissioners of our Land Office, dated the day of 19..., and in consideration of the sum of dollars, (\$.....), lawful money of the United States, paid by of

(Insert name of street and number)

in the of, County of and State of, and upon the conditions hereinafter expressed, we have given and granted and by these presents do give and grant unto the said, the owner of the lands adjacent to the lands hereinafter described, his grantees, heirs, devisees or successors in interest (hereinafter referred to as the "patentee"), the following described lands under water, to wit:

(Here insert description)

reserving, however, to the said People the right to use said lands for dockage and wharfage purposes on the conditions hereinafter stated.

These letters patent are issued, however, and this grant is made and accepted:

First.— To enable the said “patentee” to promote and improve the commerce of this State and to that end to erect and maintain on said lands a public dock, wharf, piers and slips, and to collect from those using same, statutory rates of dockage or wharfage if same have been prescribed, and if not, reasonable and accustomed dockage or wharfage, but not to enable the said “patentee” to erect and maintain a building or buildings for private manufacturing purposes or for purposes of private or beneficial enjoyment or for other purposes not strictly for the improvement and promotion of public commerce and in aid of navigation.

Second.— Upon the express condition that if at the end of five years from the date of these presents or at any time thereafter, any part of said lands hereby granted are not improved as follows:

(a) by filling in the lands under water hereinabove described; or

(b) by building and maintaining thereon a bulkhead or retaining structure and filling in back of same; or

(c) by erecting and maintaining on said lands upon piles or other supports, a building or buildings for temporary storage purposes, or a pier or piers, of a substantial character; together with the necessary slips, but only of such dimensions as may be requisite and necessary for the proper approach to and landing on said uplands or a portion of the lands hereinabove described and improved as aforesaid;

(which shall be known as “improvements”), then these letters patent and this grant shall become null and void as to the part not so improved; and no right, title or interest in and to the lands hereinabove described not so improved shall vest in the said “patentee” or accrue by virtue of these presents; and the People of the State of New York may thereupon re-enter into and become

possessed of the lands hereinabove described or any part thereof which have not been or which are not then so improved, without any liability.

Third.— Upon the express condition that if the said “patentee” shall erect and maintain on said lands under water, buildings or structures other than those necessary for the temporary storage of goods, wares and merchandise in transit and in aid of navigation, or shall devote said premises to other than public dockage purposes and the loading and unloading of merchandise and persons and the temporary storage of merchandise, then these letters patent and this grant shall become null and void and no right, title or interest in and to the lands hereinabove described shall vest in the said “patentee” or accrue by virtue of these present letters patent and the people of the State of New York may thereupon re-enter into and become possessed of the lands hereinabove described, or any part thereof, without any liability.

Fourth.—(Same as “second” in form for beneficial enjoyment.)

The Corporation Counsel of the City of New York in a communication dated July 19, 1920, requested the retention of the recapture clause in letters patent for grants of land under water within the limits of the City of New York for the benefit of said city and suggested that it take the following form:

“Upon the express condition that if The City of New York shall at any time hereafter acquire said premises and ‘improvements,’ or a part or portion thereof, by condemnation or otherwise, the liability of The City of New York shall be limited to the amount paid by said patentee to the State for this patent, or a proportionate part thereof, together with the expenses necessarily incurred by the patentee for the acquiring of this patent, which are hereby fixed at the sum of \$350, and also the value of the ‘improvements’ on said premises, or the proportionate part thereof which may be so acquired. The value of such ‘improvements’ if so acquired, or such proportionate part of the amount

paid by said patentee for this patent and of the value of such 'improvements' on a portion of such lands which may be so acquired by The City of New York, and all damages, if any, to the remainder of such 'improvements' which may not be so acquired, to be paid by The City of New York, may be determined in any proceeding brought by or on behalf of the City of New York for such acquisition."

STATE OF NEW YORK,

OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, *September 10, 1920.**To the Commissioners of the Land Office, Albany, N. Y.:*

GENTLEMEN.— At a meeting of the Commissioners of the Land Office, held August 4, 1920, the undersigned committee to consider the forms of letters-patent granting lands under navigable waters, appointed April 2, 1919, made its report in writing, dated July 17, 1920, and submitted copies of proposed forms of letters-patent.

Since that time and under date of August 21, 1920, the corporation counsel of the city of New York has requested that the so-called "recapture clause" for the benefit of the city of New York and now used, be retained and used whenever grants are made affecting lands within the city of New York, especially until certain pending litigation is determined.

In compliance with said requests of the corporation counsel, your committee recommends that such "recapture clause" be retained for the present and until further or other action of the Commissioners in respect thereto, said clause to read as follows:

"This grant is made and accepted upon the express covenant, terms and conditions that the City of New York may at any time hereafter acquire the interest in the premises herein described, which the patentee may have acquired under or by virtue of this patent, upon paying to the patentee, his heirs, successors or assigns the amount paid by said

patentee to the State for the said interest in said premises together with the expenses necessarily incurred by the patentee for the acquiring of such patent, which are hereby fixed at the sum of \$350, and also the value of the improvements on said premises; or may acquire the interest acquired under this patent to a part or a portion of said premises upon paying to the patentee, his heirs, successors or assigns the proportionate share of the amount paid by such patentee to the State for such interest in part or portion and a proportionate part of the said expenses together with the value of the improvements on the portion thereof acquired at the time. The City of New York shall acquire title to such interest and also all damages, if any there be, to the improvements upon such part of the premises herein described not acquired by The City of New York as shall be occasioned by the division of the herein described premises. And that the patentee, his heirs, executors, administrators, successors or assigns shall not demand, claim or be entitled to receive any further, other or greater compensation for any interest which he may have acquired under or by virtue of this patent in or to the said premises or in or to the part or parcel thereof so taken by The City of New York."

Your committee also recommends that the following be added to the form of patent for the purpose of beneficial enjoyment at the end of paragraph "First" and to the form of patent to promote the commerce of this State at the end of paragraph "Second":

Until such "improvements" are made and unless such "improvements" restrict or prevent public navigation upon the waters over said lands, the public shall have and may enjoy the right of navigation upon the waters over said lands.

Dated, *September 10, 1920.*

Respectfully submitted,

FRANK M. WILLIAMS,

State Engineer and Surveyor.

CHARLES D. NEWTON,

Attorney-General.

FRANCIS M. HUGH,

Secretary of State.

STATE OF NEW YORK,

OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, September 21, 1920.

BEFORE THE COMMISSIONERS OF THE LAND OFFICE

the Matter of the Petition of JENNIE O'BRIEN for the release to her of the State's interest in certain lands in the Town of Camden, Oneida County, being part of lots 37 and 38, in Township 7, Scriba's Patent, alleged to have escheated to the State upon the death of her husband, TIMOTHY O'BRIEN, without heirs.

to the Commissioners of the Land Office:

GENTLEMEN.—The verified petition herein and corroborative affidavits and abstract of title show that Timothy O'Brien by deed dated September 20, 1887, purchased from Theresa Woodruff; on June 22, 1889, purchased from Augustus G. Wood and wife; and on February 25, 1889, purchased from Giles Smith and wife, certain parcels of land being parts of lots 37 and 38 in Township No. 7, Scriba's Patent, in the town of Camden, Oneida County, containing in all about 26¼ acres; that said Timothy O'Brien, a United States citizen, died seized thereof on February 19, 1919, leaving the petitioner, his wife, and no heirs at law; that the said premises were purchased by said Timothy O'Brien for the aggregate sum of seven hundred fifty dollars (\$750) and are situate about one mile from the village of Camden, Oneida County, N. Y., and has upon it a small old house and barn which was occupied by the deceased at the time of his death and is now occupied by the petitioner as her home and that the same is worth at the present time from five to seven hundred dollars (\$500–700) and is assessed upon the assessment-roll of the town of Camden at the valuation of four hundred and fifty dollars (\$450); that the petitioner was duly appointed administratrix of the estate of her deceased husband by the surrogate of Oneida County on February 19, 1919, and that the net personal estate of six hundred seventy-six dollars and nineteen cents (\$676.19) of said decedent over debts, funeral expenses and expenses of administration has been turned over to the petitioner; that petitioner has

no other means of her own; is over sixty years of age and unable to do hard manual labor, but if allowed to retain possession of the premises by the aid of one or two cows and hens, which she can keep on the premises, and by strict economy she would be able to maintain herself without becoming a public charge; that petitioner married said Timothy O'Brien nearly forty years ago and the property left by said decedent is the result of united efforts, labor and savings of both decedent and the petitioner.

The lands so escheated are fully described in the petition and abstract of title. Notice of the application was duly published in an Oneida county newspaper.

It is my opinion that if the Commissioners of the Land Office see fit to grant the prayer of this petition the grant should be made without consideration in accordance with the statutes.

Respectfully submitted,
CHARLES D. NEWTON,
Attorney-General.

STATE OF NEW YORK,

OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, *October 13, 1920.*

BEFORE THE STANDING COMMITTEE ON THE HEARING OF REMONSTRANCES OF THE COMMISSIONERS OF THE LAND OFFICE

In the Matter of the Application of MARTIN J. KANE'S HOTEL AND GROVE, INC., for a grant of land under water in Westchester Creek in the Borough and County of Bronx, New York City.

To the Commissioners of the Land Office:

GENTLEMEN.— The application shows that the land now applied for was granted on December 4, 1908, to Margaret D. Kane, conditioned upon her making improvements within five years thereafter, and that on December 20, 1913, an extension of time to make such improvements to December 4, 1916, was duly made. Thereafter the grant lapsed and the greater part of the land under water now applied for remains unimproved.

A remonstrance to this application was filed by the corporation counsel of the city of New York wherein the city claims title to the lands under water applied for and all lands under water in Westchester creek as successor in interest to the former town of Westchester by virtue of three colonial patents to said town, dated respectively February 15, 1667, January 6, 1686, and April 1, 1696, and upon the further ground that on December 27, 1818, an action brought by Alida A. Bliss and others against Grand L. Benedict impleaded with the city of New York as defendants, was tried before Mr. Justice Finch at a Special Term of the Supreme Court in Bronx county, in which action the question of the title to the lands under water in Westchester creek was litigated and submitted to the court.

A hearing was held before your Committee on October 6, 1920, attended by counsel for the applicant and by an assistant corporation counsel of the city of New York. There was submitted to your Committee on such hearing a copy of the opinion of Mr. Justice Finch in the case of Bliss against Benedict et al., in which the court held that the lands in question in that action, being lands adjacent to the lands now applied for but further northerly and nearer Westchester creek, are not included in the colonial patents to the town of Westchester. The corporation counsel states that the city has appealed from the said determination.

But, nevertheless, as the predecessor in title to the adjacent lands of the present applicant, to wit, Margaret Kane, did under said former patents have an interest in the lands under water now applied for and the applicant now desires to improve said premises by filling in the same and constructing streets and highways thereon and putting up buildings, your Committee recommends the overruling of the remonstrance of the city of New York and recommends that the grant be made to the applicant after an appraisal of the value of the lands applied for.

Respectfully submitted,

CHARLES D. NEWTON,

Attorney-General.

JAMES L. WELLS,

State Treasurer.

FRANK M. WILLIAMS,

State Engineer and Surveyor.

STATE OF NEW YORK,

OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, October 14, 1920.

BEFORE THE STANDING COMMITTEE ON THE HEARING OF REMONSTRANCES OF THE COMMISSIONERS OF THE LAND OFFICE.

In the Matter of the Application of THE LACKAWANNA STEEL COMPANY for an extension of time within which to comply with conditions contained in a grant of land under water of Lake Erie in the Town of Hamburg, Erie County.

To the Commissioners of the Land Office:

GENTLEMEN.— This is an application for a renewal of a water grant made to the Lackawanna Steel Company. The grant was originally made on May 1, 1901. The time to comply with conditions has been extended from time to time but expired on February 14, 1920. This application, however, was made prior to that date.

A remonstrance was filed on behalf of the town of Hamburg upon the ground that Lake avenue or Lakeview avenue, crossing the uplands of the applicant, is a public highway extending to the present shore line of Lake Erie and is constantly used by many residents of the town as an approach to the shore of the lake for boating, bathing and amusement purposes, for fishing through the ice and gathering ice, and that the same is the only outlet from said town to the lake that is available.

Hearings were had before your Committee on May 12 and July 7, 1920. Since said hearings it has been stipulated by the attorneys for the applicant and for the remonstrants that the said remonstrance shall be withdrawn and that if letters patent upon this application shall be granted to the applicant the same shall be made containing the following reservation:

“These letters patent are issued, however, subject to such right, title and interest as the Town of Hamburg has in lands under water in front of Lake View Avenue within the bounds of said street or avenue where the same meets the waters of Lake Erie and subject to the right of the public to ingress and egress to and from the waters of Lake Erie

within the bounds of said street extended and subject to such right, title and interest in any projected streets if any. All such rights are excepted from this grant and reserved to the State for the benefit of the said Town.

"Said Lackawanna Steel Company, by the acceptance of this grant, shall not be deemed to admit the existence of any or either of said streets or highways."

Your Committee, therefore, recommends that this matter now take the usual course of uncontested applications and that the grant be made to the applicant containing the reservation agreed upon as above quoted, and upon such terms and conditions as to the Land Board shall seem proper.

Respectfully submitted,
 CHARLES D. NEWTON,
Attorney-General.
 JAMES L. WELLS,
State Treasurer.
 FRANK M. WILLIAMS,
State Engineer and Surveyor.

STATE OF NEW YORK,

OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, October 14, 1920.

BEFORE THE COMMISSIONERS OF THE LAND OFFICE

In the Matter of the Application of MATILDA SMITH for a release of a lot of land in the Borough of Brooklyn, New York City, which escheated to the State upon the death of her husband, Charles Henry Smith intestate leaving no heirs at law.

To the Commissioners of the Land Office:

GENTLEMEN.—The petition ~~herein~~ and corroborative affidavits show that Charles Henry Smith on September 9, 1890, purchased lot 464 on block 12 shown on map of 730 lots at Bath Junction in the Town of New Utrecht, Kings county, New York, surveyed August, 1885 by Samuel H. McElroy, Civil Engineer and City

Surveyor, said lot being situate on the north side of Sixth street west of Twelfth avenue, being 20 feet front and rear 100 feet and 2 inches in depth; that at that time Charles Her Smith was married to Matilda Smith, the petitioner; that he died on July 23, 1905, a resident of Kings county; he died intestate and left no heirs at law. This was the only real estate of which he died seized and his personal property was merely of nominal value. Said lot was assessed by the City of New York for the year 1919 for one thousand dollars (\$1,000) and the same was unimproved.

Letters of administration upon the estate of Charles Her Smith were issued to the petitioner on April 27, 1920. It would therefore, appear that said property escheated to the State subject to the dower right of the petitioner, his widow, who has paid taxes upon said property from the death of her husband to the present time.

This application is made in accordance with the rules and regulations of your Honorable Board and, if you determine that a grant shall be made to the petitioner, the same should be made without consideration as directed by the Public Lands Law.

Respectfully submitted,
CHARLES D. NEWTON,

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY-GENERAL,
ALBANY, November 16, 1920

BEFORE THE COMMISSIONERS OF THE LAND OFFICE.

In the Matter of the Application of ADELINE M. MUNNICH for the advertisement and sale of Lot 726 of the Woolley Tract in the former Town of New Utrecht, Kings County, title to which was acquired by the State from the 1895 Tax Sale for unpaid Taxes of 1890 to 1892 inclusive.

To the Commissioners of the Land Office:

GENTLEMEN.—Referring to my previous report in this matter of January 28, 1920, to your Honorable Board, and to the act

of your Honorable Board at a meeting held February 18, 1920, Land Board Minutes, Page 73, re-referring the matter to me for report on the equities of the applicant, I would hereby further report that proof has been made to my satisfaction that the lands in question were in the actual possession of one Fred Meyer, a tenant of John Meyer, on the day of expiration of the period of redemption from the Tax Sale of 1895 to the State, it appearing from the Comptroller's records that no notice pursuant to the Tax Law was ever served upon such occupant, and it having been held in the case of *People v. LaDew* 189 N. Y. 355, and *Ostrander v. Reiss* 206 N. Y. 488, that the record of the Comptroller's deed to the State under such circumstances was invalid, and it appearing from the State Comptroller's report herein that the cost to the State amounted with interest to May 1, 1919, to twenty dollars and thirty-two cents (\$20.32), I would, therefore, recommend that such interest in said lands as the State may have be sold by the State Engineer and Surveyor at public auction at not less than fifty dollars (\$50) that being the amount of applicant's offer and that a quit-claim patent issue to purchaser.

Respectfully submitted,

CHARLES D. NEWTON,

Attorney-General.

STATE OF NEW YORK,

OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, November 27, 1920.

To the Commissioners of the Land Office:

GENTLEMEN.—I am advised that one Catalina Gregoire recently died a resident of Westchester County, intestate and without known heirs. At the time of her death she was seized of a parcel of real estate situate on Stuart avenue, in the village of Mamaroneck, N. Y. This property is at the present time occupied by a tenant who had a lease with the decedent which does not terminate until May 1, 1923. The rental is \$55 a month. There

is also a mortgage on the property, the exact amount of which at this time is not known.

Pending the settlement of this decedent's estate I would suggest that I be authorized to collect the rentals and make any necessary repairs and that further, I be given authority to pay from the proceeds of the rent which may be due or become due the interest on said mortgage as it accrues, in order to avoid a foreclosure action at this time.

Very truly yours,

CHARLES D. NEWTON,

Attorney-General

By ALEX T. SELKIRK, *Deputy Attorney-General*.

STATE OF NEW YORK,

OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, November 30, 1920

BEFORE THE COMMISSIONERS OF THE LAND OFFICE.

In the Matter of the Application of MARY V. SHERIDAN for Advertisement and Sale of a Portion of the Old ALBANY POST ROAD Situate on the West Side of Broadway and Mosholu Avenue, in the Borough of the Bronx, New York City.

To the Commissioners of the Land Office:

GENTLEMEN.—The above entitled matter having been referred to me on May 7, 1920, for a report as to whether or not the applicant has easements in the land applied for by her, I have the honor to report thereon as follows:

That after a thorough examination of the facts and the law I am satisfied that the applicant, as the abutting owner of the lot fronting on Mosholu Avenue and Broadway, which lots originally also fronted on the old Albany Post Road, has an easement of light, air and access over so much of the lands formerly in the old Post Road lying between the west lines of Broadway

Mosholu Avenue to the West line of the old Albany Post Road lying in front of and contiguous to other lots originally fronting the Albany Post Road and I would, therefore, recommend that the right, title and interest in the State in that part of the old Albany Post Road so abandoned be directed to be advertised and sold at public auction by the State Engineer and Surveyor as appropriated State lands at not less than the appraised value thereof by the official appraisers of this Board, dated April 26, 1920, which appraisement was for 1028.97 square feet on Broadway at \$336.96 and for 597.15 square feet on Mosholu Avenue \$127.24, a total of \$464.20, with additional cost of advertising and all other expenses of sale, the said sale to be subject to a perpetual easement for light, air and access in favor of the abutting owners; the terms of sale to require the purchaser to pay the full purchase price in cash at the time of sale; notice of sale to be published in a newspaper in the County of Bronx to be designated by your Honorable Board and the purchaser to receive a quit-claim patent upon production of the treasurer's receipt in full of payment and the certificates of sale of the State Engineer and Surveyor for such lands.

Respectfully submitted,

CHARLES D. NEWTON,

Attorney-General.

STATE OF NEW YORK,

STATE ENGINEER AND SURVEYOR,

ALBANY, *November 30, 1920.*

*to the Honorable The Commissioners of the Land Office, Albany,
N. Y.:*

GENTLEMEN.—Your committee appointed to consider new forms of letters-patent and rules and regulations governing applications for grants of land under water, herewith submits a new form of letters-patent for beneficial enjoyment and purposes of

commerce, together with the necessary rules and regulations, and recommend the adoption of same.

Respectfully,

FRANK M. WILLIAMS,
State Engineer.

CHARLES D. NEWTON,
Attorney-General.

FRANCIS M. HUGO,
Secretary of State.

RULES AND REGULATIONS OF THE COMMISSIONERS OF THE LAND OFFICE GOVERNING APPLICATIONS FOR GRANTS OF LANDS UNDER WATER

(Adopted by resolution....., 19....)

1. Anyone intending to apply for a grant of lands under water should give notice of such intention to the State Engineer and Surveyor, using blank "Form A" hereunto annexed, stating fully and in detail contemplated improvements and estimated cost of same, and shall therein limit the lands to be surveyed and applied for to such an area as is absolutely necessary for the purpose of making the contemplated improvements.

A certified check for one hundred and fifty dollars (\$150) made payable to the State Engineer and Surveyor must accompany the notice of intention to insure payment of the actual cost of making survey, maps and descriptions. Any additional cost must be paid by said applicant before delivery of the maps. (Only the actual cost of the survey, maps and descriptions will be charged. A refund will be made if the cost is less than the amount advanced.)

Certified copies of title deeds must be filed as specified in said form of notice.

2. The notice must state whether a grant for the purposes of commerce or beneficial enjoyment is to be applied for. In every case when an application for a grant is filed with the Commissioners, the State Engineer shall transmit said notice with copies

all title deeds submitted to him to the Commissioners of the Land Office.

3. The State Engineer and Surveyor shall prepare two maps upon tracing cloth which shall be marked, respectively, "A" and "B," and which shall show the lands under water applied for and also the adjacent lands owned by the applicant. The scale of map "A" shall be 50 feet to an inch and the scale of map "B" 100 feet to an inch. Said maps shall be of a standard size, 24 by 36 inches. The working space on the tracing shall be 22 by 33 inches, except that sufficient space shall be reserved in the lower right-hand corner for the title, description of lands applied for and signature of approval.

Map "A" must also show the adjoining lands on each side, and all adjacent docks, bulkheads or other improvements; also the boundaries of all previous water grants within the limits of the map, and the course and distances of the boundaries of the lands applied for, and the depth of the soundings once in fifty feet on the whole exterior water lines.

Map "B" must show the general course of the shore a distance of one mile in each direction from the lands applied for, as well as the particular course at the point where the lands are applied for, and if the water be a river or narrow body of water, the width of such water or river together with an outline of each shore, to extend one mile upon both sides thereof above and below the lands applied for, providing the body of water is less than two miles wide.

4. "Notice of application" must be as in "Form B" hereunto annexed. All affidavits must be made upon the blanks hereunto annexed. The requirements as herein provided must be strictly observed.

5. The following affidavits, maps and papers are to be filed with the Commissioners:

(a) An affidavit showing publication of the notice of application at least once a week for six weeks, successively, in a newspaper printed in the county or counties in which the lands applied for are situated, the first publication of such notice to be at least thirty-two days before the date of application. See "Form C."

(Attention is called to the fact that certain lands under the

waters of the East River, below low water mark, adjoining the counties of Kings and Queens, are within the county of New York. See section 2 of the Montgomery Charter of 1790 and section 1, chapter 410, Laws of 1882, being the Consolidated Laws of the City of New York, which provides that the county of New York shall extend to and along low water mark of Long Island Sound from College Point across Flushing Bay to Seaboard Point and thence along the Long Island shore at low water mark to the south side of Red Hook.)

(b) An affidavit showing that a printed copy of said notice of application was posted upon the door of the courthouse of the county or counties in which the land applied for are situated at least forty-two days before the date of application. See "Form D."

(c) An affidavit showing that a printed copy of said notice of application was served at least thirty days before the date of application upon the owners whose names shall be ascertained as prescribed in "Form E," of the lands on the waterfront adjoining on each side the lands of the applicant adjacent to the land applied for and described in said notice of application. Said notice shall be served on such owner personally, if service can be made within this State. If the applicant shall not be able to cause said notice to be served personally within this State after making diligent efforts so to do, he may cause the same to be served upon the occupants of said adjoining lands, or if there be no occupant thereon, by posting printed copies of said notice in three public places in the town or ward wherein said adjoining lands are situated. See "Form E."

(d) An affidavit of the applicant that he intends forthwith to appropriate the lands applied for to the purposes of commerce and to use such lands to promote the commerce of this State by erecting and maintaining thereon a public dock or docks, or that said lands are necessary and proper for the purposes of the beneficial enjoyment of the same, and that he intends in good faith to fill in said lands and/or to erect and maintain upon said lands certain permanent structures, docks or buildings, said contemplated improvements to be fully described and in detail. See "Form Fa" and "Form Fb."

The said affidavit of the applicant shall also state the assessed value of the lands owned by applicant adjacent to the lands applied for, on the next preceding assessment roll of the city or town in which said adjacent lands are situated, and shall also state the area of said adjacent lands.

(e) When the lands applied for are situated within the corporate limits of any city or incorporated village, an affidavit of the personal service of a copy of the printed notice upon the mayor or clerk of the common council of the city or upon the president or clerk of the village, or if the lands applied for are not within the limits of any city or incorporated village, an affidavit of personal service of a copy of the printed notice upon the supervisor or town clerk of the town in which said lands are situated. (Such service is to be made at least thirty days previous to the making of such application.) See "Form G."

(f) A search or an abstract of title of the adjacent lands of the applicant covering a period of at least thirty years prior to the time of application, or in case of no record title, proof by affidavit or affidavits of adverse possession of twenty years or more next preceding the time of application, with claim of ownership by the applicant himself and by those under whom he claims. The affidavits of possession must state the facts of ownership and use, which are alleged to constitute claim of title by adverse possession. See "Form H."

(g) Maps "A" and "B" herein described.

(h) In all applications for grants of land under water in The City of New York, an affidavit of service of said notice of application and maps upon the Corporation Counsel of The City of New York, see "Form I," and also an affidavit of service on said notice of application and maps upon the Department of Docks of The City of New York, see "Form J."

(i) In applications made by The City of New York pursuant to the provisions of section 86 of chapter 466, Laws of 1901 (Charter of The City of New York), the city shall file with the Commissioners satisfactory proof of who are riparian proprietors and of service of notice of such applications upon such riparian proprietors, giving the names and addresses of the persons so served.

6. Blanks must be fastened together in their alphabetical order, as per letter in lower right-hand corner, and the set properly endorsed.

7. All searches, abstracts of title, title papers and affidavits of adverse possession filed with the Commissioners, shall be referred to the Attorney-General for examination of title. The Attorney-General shall cause an examination of the title of the adjacent lands of the applicant to be made and shall report to said Commissioners whether in his opinion the applicant is the owner of such adjacent lands.

8. All applications for grants of lands under water shall be referred for appraisal to one or more of the official appraisers of the Commissioners, and letters-patent shall issue only on payment of the value so reported, or such sum as the Commissioners shall, under all the circumstances, deem reasonable. Such payment shall be made within three months from the date of the resolution granting the application.

9. The minimum sum to be charged the patentee in each case of a grant of lands under water is fixed at fifty dollars (\$50).

For every patent five dollars for each parcel included therein shall be charged.

10. There shall be a special committee of the Commissioners for the purpose of hearing contested applications for grants of lands under water. This committee shall be known as "The Standing Committee on the Hearing of Remonstrances" and shall consist of the Attorney-General, State Treasurer and State Engineer and Surveyor, which shall adopt rules of practice.

The Secretary of the Commissioners shall furnish to all persons who have filed remonstrances as provided for by the notice of application copies of the Rules of Practice of such standing committee as to the hearing of said remonstrances. The Secretary shall also give notice to the applicant of all remonstrances filed and shall furnish said applicant with a copy of said Rules of Practice.

11. The Secretary of the Commissioners shall give notice to the applicant and to all persons who may apply to him therefor as to when and where the Commissioners will meet to consider said application.

12. All letters-patent shall conform to the blank forms hereto annexed. See "Form K" and "Form L."

13. The rules relating to extensions of time within which to comply with the conditions contained in letters-patent and blank forms of application for such extensions shall be furnished by the Secretary of the Commissioners upon application. (See last sentence of section 14, Public Lands Law.)

14. All communications should be addressed to the "Commissioners of the Land Office, office of the Secretary of State, Albany, N. Y."

[FORM A]

State Engineer and Surveyor, Albany, N. Y.:

SIR.— You are hereby notified that it is the intention of the undersigned to apply to the Commissioners of the Land Office for a grant of certain lands under water located in the of, county of, for the purposes of * ^{commerce} _{beneficial enjoyment}.

The undersigned intends to make the following improvements upon said lands:

The estimated cost of making the improvements are \$....., as follows:

The said lands under water to be applied for extend along the adjacent lands of the undersigned a distance of feet, and are to extend from said adjacent lands a distance of feet into the water of to the * ^{bulk head} _{pier head} _{harbor} } line, subject to the recommendation of the State Engineer.

The undersigned herewith makes deposit of a certified check for one hundred fifty dollars (\$150) payable to the order of the State Engineer and Surveyor to insure payment for survey, maps and descriptions and guarantees to reimburse said State Engineer and Surveyor on demand if the cost of the survey, maps and descriptions should exceed the amount of such certified check.

There are enclosed certified copies of the deeds of said adjacent

* Strike out words not applying.

lands of the undersigned as well as certified copies of the deeds of the lands adjoining same.

Dated, 19....

.....,

Applicant.

Post-office address,,

.....

.....,

Attorney for Applicant.

Post-office address,,

.....

NOTE.— If applicant has a map or sketch showing location of lands applied for, same should be furnished.

[FORM B]

FORM OF "NOTICE OF APPLICATION"

NOTICE OF APPLICATION TO THE COMMISSIONERS OF THE LAND OFFICE FOR A GRANT OF LAND UNDER WATER.

TAKE NOTICE, That the undersigned will on the day of, 19... (this date must be forty-two days after date of first publication, but need not be a day on which the Commissioners meet), make an application to the Commissioners of the Land Office for a grant of the lands under water hereinafter described. Any person deeming himself liable to injury by said grant, should before said date file with said Commissioners, at the office of the Secretary of State in the Capitol in Albany, a remonstrance, stating his reasons for opposing said grant.

The lands under water above mentioned are bounded and described as follows, to wit: (here must follow a concise description of the land, the exact courses and distances to be given in words of full length as furnished by the State Engineer), containing acre... and of an acre.

The lands of the undersigned applicant, adjacent to the lands applied for, are bounded (here insert boundaries of lands, adjoining such adjacent lands, giving names of the owners thereof), and said adjacent lands of the occupant are actually occupied by

(here insert names of persons actually living upon the property, whether applicant or applicant's tenants or servants).

(a) It is the intention of the undersigned forthwith to appropriate said lands under water to the purposes of commerce, by the erection thereon of a public dock or docks.

(b) It is the intention of the undersigned to appropriate said lands under water to his beneficial enjoyment by filling in the same and (or) erecting thereon the following permanent structures, docks or buildings, viz.:

(Use paragraph (a) or (b) according to the form of letter-patent desired.)

Dated, 19...

., *Applicant.*

Post-office address,,

., *Attorney for Applicant.*

Office and post-office address,,

[FORM C]
AFFIDAVIT OF PUBLICATION

STATE OF NEW YORK, } ss.:
COUNTY OF }

., of the, in the County of, being duly sworn, says:

1. That he is the of newspaper printed and published in the, in the County of, in the State of New York.

2. That notice, of which the annexed is a printed copy, has been published in said newspaper once a week for six weeks, successively, commencing on the day of,

19...., and continuing on the following dates:

..... day of, 19....
 day of, 19....
 day of, 19....
 day of, 19....
 day of, 19....
 day of, 19....

Sworn to before me this }
 day of, 19.... }

.....,

.....

NOTE.—The first publication of said notice must be at least forty-two days before the date of application.

[FORM D]

AFFIDAVIT OF POSTING NOTICES ON COURTHOUSE

STATE OF NEW YORK, } ss.:
 COUNTY OF

....., of
, in the
 County of, being
 duly sworn, says:

1. That on the day of, 19....
 he securely posted upon the outer door of the courthouse of the
 County of, in the State of
 New York, in the, in
 said county, a notice, of which the annexed is a printed copy.

Sworn to before me this }
 day of, 19.... }

.....,

.....

NOTE.—The posting of said notice must be at least forty-two days before the date of application.

[FORM E]

AFFIDAVIT OF SERVICE ON AN OWNER OF
ADJOINING LANDS

STATE OF NEW YORK, }
COUNTY OF } ss.:

....., of
....., in the
County of, being
duly sworn, says:

1. That on the day of, 19....
at, he personally
served upon
a printed copy of the annexed notice, by delivering to and leaving
the same with

(Use either one of the following forms which may be appli-
cable; strike out the others.)

(a) That the said was
personally known to deponent to be an owner of lands on the
water front adjoining the lands of the applicant adjacent to the
lands applied for and described in the annexed notice.

(b) (or) That the said was
known to deponent to be shown on the records of the office of the
clerk or register of the County of
to be an owner of lands on the water front and who deponent
verily believes is the present owner of said lands, adjoining lands
of the applicant adjacent to the lands applied for and described
in the annexed notice.

(c) (or) That the said was
known to deponent to be shown on the last preceding assessment-
roll of the town or ward wherein said lands are situated to be an
owner of lands on the water front and who deponent verily believes
is the present owner of said lands, adjoining the lands of the
applicant adjacent to the lands applied for and described in the
annexed notice.

(d) (or) That the said was
known to deponent to be the occupant of lands on the water front
adjoining the lands of the applicant adjacent to the lands applied
for and described in the annexed notice. Deponent further says

that he was unable to serve said notice personally upon the owner of said lands adjoining those of applicant within this State after making diligent effort so to do for the following reasons:

2. (or) That on the day of 19...., at, he securely posted printed copies of the annexed notice in the following three public places, viz.: at.....

..... in the town or ward wherein the lands on the water front adjoining the lands of applicant adjacent to the lands applied for and described in said notice are situated. Deponent further says that said lands adjoining those of applicant are unoccupied and that he was unable to serve said notice personally upon the owner of said lands, within this State, after making diligent efforts so to do, for the following reasons:

Sworn to before me this }
day of, 19.... }

.....
.....

[FORM E*]

AFFIDAVIT OF SERVICE ON AN OWNER OF ADJOINING LANDS

STATE OF NEW YORK, }
COUNTY OF } ss.:

....., of
....., in the
County of, being
duly sworn, says:

1. That on the day of, 19....,
at, he personally

* There are two forms E.

served upon , a printed copy of the annexed notice, by delivering to and leaving the same with

(Use either one of the following forms which may be applicable; strike out the others.)

(a) That the said was personally known to deponent to be an owner of lands on the water front adjoining the lands of the applicant adjacent to the lands applied for and described in the annexed notice.

(b) (or) That the said was known to deponent to be shown on the records of the office of the clerk or register of the County of to be an owner of lands on the water front and who deponent verily believes is the present owner of said lands, adjoining lands of the applicant adjacent to the lands applied for and described in the annexed notice.

(c) (or) That the said was known to deponent to be shown on the last preceding assessment-roll of the town or ward wherein said lands are situated to be an owner of lands on the water front and who deponent verily believes is the present owner of said lands, adjoining the lands of the applicant adjacent to the lands applied for and described in the annexed notice.

(d) (or) That the said was known to deponent to be the occupant of lands on the water front adjoining the lands of the applicant adjacent to the lands applied for and described in the annexed notice. Deponent further says that he was unable to serve said notice personally upon the owner of said lands adjoining those of applicant within this State after making diligent effort so to do for the following reasons:

.....

2. (or) That on the day of, 19...., at he securely posted printed copies of the annexed notice in the following three public places, viz.: at

.....

 in the town or ward wherein the lands on the water front adjoining

the lands of applicant adjacent to the lands applied for and described in said notice are situated. Deponent further says that said lands adjoining those of applicant are unoccupied and that he was unable to serve said notice personally upon the owner of said lands, within this State, after making diligent efforts so to do, for the following reasons:

Sworn to before me this }
 day of, 19... }

.....,

[FORM FA]

AFFIDAVIT OF APPLICANT

STATE OF NEW YORK, }
 COUNTY OF, } ss.:

..... of th
, in th
 County of, bein
 duly sworn, says:

1. That ..he,
 the person named in the annexed printed notice, as the applicant
 for a grant of lands under water, therein particularly described

2. That ..he.. has read the same and knows it to be true

3. That the said lands are situate in the.....
, in the County of
 in the State of New York, and are.....
 within the corporate limits of a city or incorporated village, viz.

4. That ..he,
 owner in fee of the adjacent lands described in said annexed
 notice, and that said lands are now actually occupied by

5. That the lands owned by applicant adjacent to the lands
 hereby applied for were assessed at the sum of

..... dollars on the next preceding assessment-roll
of the, in which
said adjacent lands are situated, and said lands are of the area
.....

6. That intend
orthwith to appropriate the land applied for to the purposes of
commerce by erecting thereon a public dock, or docks, and that
the lands applied for are not more than are necessary for that
purpose.

.....
sworn to before me this
day of, 19
.....

.....
NOTE.—This form to be used only in applications for purposes
of commerce.

[FORM FB]

AFFIDAVIT OF APPLICANT

STATE OF NEW YORK, }
COUNTY OF } ss.:

.....
..... of the
..... in the
county of, being
fully sworn, says:

1. That ..he,
e person named in the annexed printed notice, as the applicant
r a grant of lands under water, therein particularly described.
2. That ..he.. has read the same and knows it to be true.
3. That the said lands are situate in the
....., in the County of
the State of New York, and are
ithin the corporate limits of a city or incorporated village, viz.:
.....
4. That ..he,
wner in fee of the adjacent lands described in said annexed

printed notice, and that said lands are now actually occupied by

5. That the lands owned by applicant adjacent to the lands hereby applied for were assessed at the sum of dollars on the next preceding assessment-roll of the, in which said adjacent lands are situated, and said lands are of the area of

* 6. That applicant.... intends in good faith to erect upon said lands applied for the following permanent structures, docks or buildings which are necessary for the beneficial enjoyment of the same for the reasons hereinafter stated. That is the intention of applicant to improve all and every part of the land applied for and at all times to keep said improvements in proper maintenance and repair, as follows:

* 7. That applicant intends to fill in the same, which filling is for the beneficial enjoyment of the same is necessary for the following reasons:

Sworn to before me this..... }
day of, 19.... }

.....,

.....

This form to be used only in applications for beneficial enjoyment.

* Use whichever paragraph is applicable or both if both are applicable.

[FORM G]

AFFIDAVIT OF SERVICE ON MAYOR, PRESIDENT,
SUPERVISOR OR CLERK

STATE OF NEW YORK, ss.:
COUNTY OF
..... of
....., in the
County of, being
duly sworn, says that on the day of,
19...., he personally served upon
who was to him personally known to be the
..... of the
of, in the County
of, in the
State of New York, a notice of which the annexed is a printed
copy, by delivering to and leaving the same with him.
Sworn to before me this }
day of, 19.... }
.....,
.....

[FORM H]

AFFIDAVIT OF TWENTY YEARS' ADVERSE
POSSESSION

STATE OF NEW YORK, ss.:
COUNTY OF
....., of
....., in the
County of, in the State
of New York, being duly sworn, says:

1. That he is well acquainted with the lands described in the
annexed printed notice, and has been so for more than twenty
years last past.

2. That the lands adjacent thereto have been for more than twenty years last past in the open, notorious and adverse possession of

.....
 and those under and through whom
 now holds and claims, and that such possession during the time aforesaid was accompanied by claim of title and ownership by and on the part of the said

.....
 and those under and through whom
 now claims title to said premises, and such possession and claim of title were accompanied by the following acts of ownership and use, aside from mere payment of taxes thereon, viz.: (Name of each owner for past twenty years and periods of respective ownership should be shown and reference made to deeds and wills

.....
 That said possession has been peaceable and undisturbed and that the title to the said lands has not been disputed or questioned and no adverse claim of title has been made thereto for years, to the personal knowledge of deponent.

Sworn to before me this }
 day of, 19..... }

.....,

.....

[FORM I]

AFFIDAVIT OF SERVICE ON THE CORPORATION
COUNSEL OF THE CITY OF NEW YORK

STATE OF NEW YORK, } ss.:
COUNTY OF }
..... of
....., in the
County of, being
duly sworn, says that on the day of
19...., he personally served upon
....., who was to him personally known
to be the
of the Corporation Counsel of the City of New York, a notice
of which the annexed is a printed copy, by delivering to and
leaving the same with him, together with blue print copies of
Maps "A" and "B" to be filed with said application.

Sworn to before me this }
day of, 19.... }
.....,
.....

This affidavit only required in applications for grants of land
under water in the City of New York, and notice must be served
at least forty-two days before date of application.

[FORM J]

AFFIDAVIT OF SERVICE ON THE DEPARTMENT OF
DOCKS

STATE OF NEW YORK, ss.:
COUNTY OF
..... of
....., in the
County of, being
duly sworn, says that on the day of

19...., he personally served upon
 who was to him personally known to be the
 of the Department of Docks of the City of New York, a not
 of which the annexed is a printed copy, by delivering to a
 leaving the same with him, together with blue print copies
 Maps "A" and "B," to be filed with said application.

Sworn to before me this }
 day of, 19.... }

.....,

.....

This affidavit only required in applications for grants of land
 under water in the City of New York, and notice must be served
 at least forty-two days before date of application.

[FORM K]

FORM OF PATENT TO PROMOTE THE COMMERCE
 OF THIS STATE

THE PEOPLE OF THE STATE OF NEW YORK, BY THE GRACE OF
 GOD, FREE AND INDEPENDENT

To all to Whom These Presents Shall Come, Greeting:

Know ye, that pursuant to a resolution of the Commissioners
 of our Land Office, dated the day of
 19...., and in consideration of the sum of
 dollars (\$.....), lawful money of the United
 States, paid by
 of

(Insert name of street and number.)

in the of, County of
 and State of, and upon the conditions hereinafter
 expressed, we have given and granted and by these presents do
 give and grant unto the said
 the owner of the lands adjacent to the lands hereinafter described
 his grantees, heirs, devisees or successors in interest (hereinafter
 referred to as the "patentee"), the following described land
 under water, to wit:

(Here insert description.)

reserving, however, to the said People the right to use said lands for dockage and wharfage purposes on the conditions hereinafter stated.

These letters-patent are issued, however, and this grant is made and accepted:

First: To enable the said "patentee" to promote and improve the commerce of this State and to that end to erect and maintain on said lands a public dock, wharf, piers and slips, and to collect from those using same, statutory rates of dockage or wharfage if same have been prescribed, and if not, reasonable and accustomed dockage or wharfage, but not to enable the said "patentee" to erect and maintain a building or buildings for private manufacturing purposes or for purposes of private or beneficial enjoyment or for purposes not strictly for the improvement and promotion of public commerce and in aid of navigation.

Second: Upon the express condition that if at the end of five years from the date of these presents, or at any time thereafter, any part of said lands hereby granted are not improved as follows:

(a) By building and maintaining thereon a bulkhead or retaining structure and filling in back of same; or

(b) By erecting and maintaining on said lands upon piles or other supports a building or buildings for temporary storage purposes, or a pier or piers, of a substantial character; together with the necessary slip or slips;

(which shall be known as "improvements"), then these letters-patent and this grant shall become null and void as to the part not so improved; and no right, title or interest in and to the lands hereinabove described not so improved shall vest in the said "patentee" or accrue by virtue of these presents; and the People of the State of New York may thereupon re-enter into and become possessed of the lands hereinabove described or any part thereof which have not been or which are not then so improved, without any liability.

There is reserved to the said people the full and free right, liberty and privilege of entering upon and using all and every

part of the above described lands which have not been improved as aforesaid, as the said people might have done had this grant not been made.

Third: Upon the express condition that if the said "patentee" shall erect and maintain on said lands under water buildings or structures other than those necessary for the temporary storage of goods, wares and merchandise in transit and in aid of navigation, or shall devote said premises to other than public dockage purposes and the loading and unloading of merchandise and persons and the temporary storage of merchandise, then these letters patent and this grant shall become null and void and no right, title or interest in and to the lands hereinabove described shall vest in the said "patentee" or accrue by virtue of these presents and the People of the State of New York may thereupon re-enter into and become possessed of the lands hereinabove described or any part thereof, without any liability.

Fourth: Upon the express condition that if the State of New York shall at any time hereafter acquire said premises and "improvements," or a part or portion thereof, by appropriation or otherwise, the liability of the State shall be limited to the amount paid by said "patentee" to the State for this patent, or a proportionate part thereof, together with the expenses necessarily incurred by the "patentee" for the acquiring of this patent which are hereby fixed at the sum of \$350, and, also, the value of the "improvements" on said premises, or the proportionate part thereof which may be so acquired. The value of such "improvements" if all are so acquired, or such proportionate part of the amount paid by said "patentee" for this patent and of the value of such "improvements" on a portion of such land which may be so acquired by the State, and all damages, if any to the remainder of such "improvements" which may not be so acquired, to be paid by the State of New York, shall be determined as provided by the Legislature authorizing such acquisition.

(If lands granted are within The City of New York, add the following):

Fifth: This grant is made and accepted upon the express covenant, terms and conditions that The City of New York may at any time hereafter acquire the interest in the premises herei-

described, which the patentee may have acquired under or by virtue of this patent, upon paying to the patentee, his heirs, successors or assigns the amount paid by said patentee to the State for the said interest in said premises, together with the expenses necessarily incurred by the patentee for the acquiring of such patent, which are hereby fixed at the sum of \$350, and also the value of the improvements on said premises; or may acquire the interest acquired under this patent to a part or a portion of said premises upon paying to the patentee, his heirs, successors or assigns the proportionate share of the amount paid by such patentee to the State for such interest in part or portion and a proportionate part of the said expenses, together with the value of the improvements of the portion thereof acquired at the time The City of New York shall acquire title to such interest, and also all damages, if any there be, to the improvements upon such part of the premises herein described not acquired by The City of New York as shall be occasioned by the division of the herein described premises. And that the patentee, his heirs, executors, administrators, successors or assigns shall not demand, claim or be entitled to receive any further, other or greater compensation for any interest he may have acquired under or by virtue of this patent in or to said premises or in or to the part or parcel thereof so taken by The City of New York.

(Here insert any other special restrictions, reservations or conditions.)

IN TESTIMONY WHEREOF, we have caused these our letters to be made patent, and the Great Seal of our said State to be hereunto affixed. Witness
, Secretary of State of our said State at our City of Albany, the day of, in the year of our Lord, one thousand nine hundred

Passed the Secretary's office the day of, 19....

.....,
Deputy Secretary of State.

[FORM L]

FORM OF PATENT FOR THE PURPOSE OF
BENEFICAL ENJOYMENT

THE PEOPLE OF THE STATE OF NEW YORK, BY THE GRACE OF
GOD, FREE AND INDEPENDENT

To All to Whom These Presents Shall Come, Greeting:

Know ye, that pursuant to a resolution of the Commissioners of our Land Office, dated the day of, 19....., and in consideration of the sum of dollars (\$.....), lawful money of the United States, paid by of, in

(Insert name of street and number.)

the of, County of and State of, and upon the conditions hereinafter expressed, we have given and granted and by these presents do give and grant unto the said, the owner of the lands adjacent to the lands hereinafter described, his grantees, heirs, devisees or successors in interest (hereinafter referred to as the "patentee"), the following described lands under water, to wit:

(Here insert description.)

.....
.....
.....

These letters-patent are issued, however, and this grant is made and accepted:

First: Upon the express condition that if at the end of five years from the date of these presents or at any time thereafter, any part of said lands hereby granted are not improved as follows:

(a) By filling in the lands under water hereinabove described; or

(b) By building and maintaining thereon a bulkhead or retaining structure and filling in back of same; or

(c) By erecting and maintaining on said lands upon piles or other supports, a building or buildings, a structure or structures, or a pier or piers, of a substantial character; or by maintaining a dry-dock on said lands; or by dredging and maintaining on said lands, a slip or basin, or slips or basins, for the proper approach to the landing of the "patentee" adjacent to said slip or basin, or slips or basins;

(which shall be known as "improvements"), then these letters-patent and this grant shall become null and void as to the part not so improved; and no right, title or interest in and to the lands hereinabove described not so improved shall vest in the said "patentee" or accrue by virtue of these presents; and the People of the State of New York may thereupon re-enter into and become possessed of the lands hereinabove described, or any part thereof which have not been or which are not then so improved, without any liability.

There is reserved to the said people the full and free right, liberty and privilege of entering upon and using all and every part of the above described lands which have not been improved as aforesaid, as the said people might have done had this grant not been made.

Second: Upon the express condition that if the State of New York shall at any time hereafter acquire said premises and "improvements," or a part or portion thereof, by appropriation or otherwise, the liability of the State shall be limited to the amount paid by said "patentee" to the State for this patent, or a proportionate part thereof, together with the expenses necessarily incurred by the "patentee" for the acquiring of this patent which are hereby fixed at the sum of \$350, and, also, the value of the "improvements" on said premises, or the proportionate part thereof which may be so acquired. The value of such "improvements" if all are so acquired, or such proportionate part of the amount paid by said "patentee" for this patent and of the value of such "improvements" or a portion of such lands which may be so acquired by the State, and all damages, if any, to the

remainder of such "improvements" which may not be so acquired, to be paid by the State of New York, shall be determined as provided by the Legislature authorizing such acquisition.

(If lands granted are within the City of New York, add the following):

Third: This grant is made and accepted upon the express covenant, terms and conditions that The City of New York may at any time hereafter acquire the interest in the premises herein described, which the patentee may have acquired under or by virtue of this patent, upon paying to the patentee, his heirs, successors or assigns the amount paid by said patentee to the State for the said interest in said premises, together with the expenses necessarily incurred by the patentee for the acquiring of such patent, which are hereby fixed at the sum of \$350, and also the value of the improvements on said premises; or may acquire the interest acquired under this patent to a part or a portion of said premises upon paying to the patentee, his heirs, successors or assigns the proportionate share of the amount paid by such patentee to the State for such interest in part or portion and a proportionate part of the said expenses, together with the value of the improvements on the portion thereof acquired at the time The City of New York shall acquire title to such interest, and also all damages, if any there be, to the improvements upon such part of the premises herein described not acquired by The City of New York as shall be occasioned by the division of the herein described premises. And that the patentee, his heirs, executors, administrators, successors or assigns shall not demand, claim or be entitled to receive any further, other or greater compensation for any interest he may have acquired under or by virtue of this patent in or to said premises or in or to the part or parcel thereof so taken by The City of New York.

(Here insert any other special restrictions, reservations or conditions.)

IN TESTIMONY WHEREOF, we have caused these our letters to be made patent, and the Great Seal of our said State to be hereunto affixed. Witness
, Secretary of State of our said State at

our City of Albany, the day of,
in the year of our Lord, one thousand nine hun-
dred

.....
Passed the Secretary's office the day of,
19....

.....,
Deputy Secretary of State.

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, *December 9, 1920.*

To the Commissioners of the Land Office:

GENTLEMEN.—Whereas, by a resolution of your Honorable Board adopted February 20, 1918, it was

“Resolved that hereafter no grants be ordered of lands under the waters of Lake Erie, under the provisions of chapter 616, Laws of 1913, unless and until the applicants therefor shall also apply and pay for the lands under water lying between the present highwater mark bounding the adjacent uplands and the arbitrary line fixed by section 2 of said act.”

And whereas this committee in a report to your Board dated January 21, 1920, stated that claims had been presented on behalf of the City of Buffalo and various owners of uplands fronting the said waters of Lake Erie, that said resolution was inequitable for the reason that it was claimed that said upland owners had good title to said arbitrary line and that the lands intervening between said present shore line and said arbitrary line were lost by avulsion and not by erosion and that the argument of said claimants had been formally heard by your said committee, who by said report recommended the adoption of the following supplemental resolution:

“The resolution of this Board adopted February 20, 1918, as above set forth, shall be without prejudice to the right of said applicants to prove that the title to the said lands under water intervening between the present shore line and said arbitrary line as the same has been determined

pursuant to section 2 of chapter 616 of the Laws of 1913 by the State Engineer and Surveyor, and shown upon his map and survey thereof, dated January 21, 1920, which map is on file in the office of the Secretary of State, and is hereby ratified and approved by this Board, was formerly in said applicants or their grantors, and that the title thereto during such ownership was lost by avulsion and not by erosion, in which event of loss of title by avulsion, it is admitted that the State would not now be the owner of such intervening lands, and a grant thereof by this Board would be unnecessary and improper; and upon such proofs being made, a grant may be authorized by this Board of lands under water between the arbitrary line so fixed and determined and the Harbor Line as established by the Secretary of War, March 27, 1899, without any application being made for said intervening lands."

which resolution was duly adopted at a meeting of the Commissioners of the Land Office held January 21, 1920.

And whereas, further hearings have been had by your committee at which several witnesses were sworn and voluminous documentary evidence was submitted, and it appearing to your committee therefrom that by reason of occasional storms of great violence, the uplands adjacent to the lands under water described in chapter 616, Laws of 1913, to wit, the lands under the waters of Lake Erie, bounded on the north by lands belonging to the Government of the United States, on the west by the shore line of Lake Erie in the outer harbor, so-called, in the City of Buffalo which by said act was fixed and determined as the westerly exterior line of Lake street, as the same is shown and appears upon a map of the village of New Amsterdam, filed in the Office of the Secretary of State, April 12, 1841, and the shore line of the Ogden Gore Tract as the same is described in an original deed of conveyance of such tract from Wilhelm Willink and others to Bela D. Coe, recorded in Erie County Clerk's Office on March 5, 1831, in Liber 13 of Deeds, at page 148 and on the map thereto attached and forming a part thereof, and southerly by the southerly line of the City of Buffalo, were washed and carried away to the present shore line.

We would, therefore, recommend that the resolutions of February 20, 1918 and 1920, be further modified by the adoption of a further resolution, to read as follows:

Resolved, that inasmuch as it has been shown to the satisfaction of this Board that the lands described in chapter 616, Laws of 1913, intervening between the present shore line of Lake Erie and the said arbitrary line as so determined by the State Engineer and Surveyor, have been carried away by avulsion, therefore, it will be unnecessary for the owners of the uplands hereafter to apply for a further grant of said lands and that hereafter said owners may apply only for the lands outside of said arbitrary line to the Harbor Line as established by the United States Secretary of War.

Respectfully submitted,

CHARLES D. NEWTON,

Attorney-General.

JAMES L. WELLS,

State Treasurer.

FRANK M. WILLIAMS,

State Engineer and Surveyor.

STATE OF NEW YORK,

OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, *December 30, 1920.*

In the Matter of the Settlement with the Cayuga Nation of Indians resident in the State of New York, under Chapter 255, Laws of 1909, as amended, the following reports were presented:

In the Matter of the Settlement with the Resident Cayugas under Chapter 255 of the Laws of 1909.

To the Commissioners of the Land Office:

GENTLEMEN.—Chapter 255 of the Laws of 1909, section 1, provides that the Commissioners of the Land Office are empowered to adjust the claim of the resident Cayugas in the State

of New York * * * for the settlement of said claim on a basis not to exceed \$247,609.33, which shall be subject to the approval of the Governor of this State.

At the first hearing the Commissioners rejected the claim on the ground that the Cayugas had no legal or equitable claim against the State. Mandamus Proceedings were thereafter commenced against the Commissioners and it was held that no judicial powers were possessed by the Commissioners under said chapter and their only duty was to adjust a settlement.

People ex rel. Cayuga Nation v. Commissioners of Land Office, 152 A. D. 543; affd., 207 N. Y. 42, reversing 74 Misc. 154.

Subsequently, acting under the mandamus order, the Commissioners allowed the whole claim, but divided the amount by providing that two-thirds of the sum stated in said act should be awarded to the resident Cayugas and one-third thereof, amounting to the sum of \$82,536.44, should be allowed to the western band of Cayugas. For this division there is no authority in the statute and the same has never been approved by the Governor as provided by said chapter. Out of the amount appropriated to the resident Cayugas the sum of \$18,215.89 was deducted for counsel fees and disbursements; that out of the amount awarded to the western Cayugas the sum of \$9,271.78 was deducted and allowed for counsel fees and disbursements. The sum of \$34,496.74, including \$11,006.32 for interest, was appropriated by chapter 778 of the Laws of 1913, of which \$34,494 has been paid and \$2.74 lapsed into the treasury; that subsequently the annual interest on said sum has been appropriated and paid up to October, 1919, by the Treasurer, two-thirds to the resident Cayugas and one-third to the western band of Cayugas.

The adjustment and award of any portion of the fund mentioned in the above chapter 255 to the western band of Cayugas is without authority and void, and there has been no approval of the same by the Governor of the State.

Therefore as no approval of any settlement has been made by the Governor the whole matter is before the Commissioners of the Land Office and may be altered, amended or rescinded until

such time as its action shall receive the approval of the Governor and all actions of the Commissioners adjusting the same or awarding any portion thereof to the western band of Cayugas or making any disposition thereof except to the resident Cayugas should be rescinded and the sum of \$220,121.66, the amount remaining after deducting the aforesaid counsel fees and expenses, less \$75,000 awarded to the Seneca Nation of Indians for lands occupied by the resident Cayugas on the Cattaraugus and Allegany reservations and for having their homes among the Senecas, be adjusted and awarded out of the fund provided by said chapter 255, and that the Governor be asked to approve the same pursuant to said chapter.

December 30, 1920.

CHARLES D. NEWTON,
Attorney-General.
JAMES L. WELLS,
Treasurer.
FRANK M. WILLIAMS,
State Engineer and Surveyor.

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY-GENERAL,
ALBANY, *December 30, 1920.*

To the Commissioners of the Land Office:

GENTLEMEN.—Your standing committee, to whom was referred chapter 596 of the Laws of 1920, and which is section 3 of chapter 255 of the Laws of 1909, providing for the making of suitable provision between the resident Cayugas in the State of New York and The Seneca Nation of Indians for the residence and occupancy of lands for said Cayugas on the Cattaraugus and Allegany reservations, and such as will provide for them and secure homes for the Cayugas and for the payment of the same out of the fund mentioned in section 1 of said chapter 255, and a petition for that purpose having been filed on behalf of The Seneca Nation of Indians, do hereby submit our report as follows:

That on the second day of December, 1920, a meeting of your committee was duly held at the office of the Attorney-General in the city of Albany, where the claim of the Senecas and the rights of the Cayugas were fully investigated and considered, from which it appears that about the year 1842 the Cayugas moved from the Buffalo reservation with the Senecas and settled on portions of the Cattaraugus and Allegany reservations and have ever since continued to hold, occupy and cultivate a large portion thereof; that the land so held and now occupied by the Cayugas amounts to several hundred acres of land and the same is not confined to any one section, but is located in various parts of said reservations and on which they have comfortable homes and farm buildings; that they have and do intermarry with the Senecas; that during all that time the Cayugas have kept up their tribal relations by annually electing chiefs; that they have never contributed towards the expenses of the government of The Seneca Nation of Indians, which annually amounts to about \$2,500; that the lands so held by the Cayugas on said reservations have an annual rental value of from \$5 to \$10 an acre and is of an estimated value of \$50 per acre; that lands on said reservations are purchased and sold by the Cayugas among themselves and the Senecas, and the Cayugas have enjoyed all the landed rights of the Senecas; that the controversy between the Senecas and the Cayugas has been that the Senecas claim that the Cayugas should pay The Seneca Nation of Indians for the lands so occupied and held by them and contribute towards the support of the government of The Seneca Nation of Indians, inasmuch as they have the benefits derived therefrom, but this the Cayugas have refused to do, yet continue to hold and occupy the lands and enjoy the improvements and benefits thereof.

Therefore your committee recommend:

1. That the resident Cayugas in the State of New York have a home with The Seneca Nation of Indians on the Cattaraugus and Allegany reservations; that they continue to occupy and possess the lands on said reservations, which they now hold and occupy, the same as heretofore and have and possess the same rights thereto as the Senecas have to the balance of said reserva-

ons for and during such time as The Seneca Nation of Indians continue to hold and occupy said reservations and said Cayugas may have their said possessions recorded in the books of The Seneca Nation of Indians kept by the clerk of said nation, the same as the Senecas, and that the said Cayuga Indians may continue their tribal organization by electing chiefs and do and perform all their tribal rights.

2. That out of the fund mentioned in section 1 of chapter 255 of the Laws of 1909, there shall be set apart for The Seneca Nation of Indians the sum of \$75,000, less counsel fees and disbursements to the amount hereafter stated, and the same shall be held in trust for The Seneca Nation of Indians by the Treasurer of the State of New York, who shall semi-annually pay the interest thereon at the rate of 5 per cent per annum to the United States special agent in charge of the New York Indians, to be by him distributed among the Seneca Indians with the other annuity moneys and at the same ratio, said interest to be computed from the first day of January, 1920.

3. That the sum of \$7,500 shall be deducted from the said sum of \$75,000 for counsel fees and also the disbursements of Seneca and Cayuga Indians to be audited by the Comptroller and allowed to and paid to Hudson Ansley, the attorney for The Seneca Nation of Indians.

4. That The Seneca Nation of Indians in consideration of the above-mentioned sum of \$75,000 shall at all times hereafter treat the Cayugas as their friends and strictly observe all the conditions and recommendations herein contained.

Dated, *December 30, 1920.*

CHARLES D. NEWTON,
Attorney-General.

JAMES L. WELLS,
Treasurer.

FRANK M. WILLIAMS,
State Engineer and Surveyor.

STATE OF NEW YORK,
ATTORNEY-GENERAL'S OFFICE,

ALBANY, *December 28, 1920.*

Application of the WATER-FRONT INDUSTRIAL SITES COMPANY, INC., for a grant of land under waters of Arthur Kill, in the Fifth Ward of the Borough of Richmond, granted to Lucy Amelia Starr et al., April 10, 1920, and recorded in the office of the Secretary of State in Book 56 of patents, at page 270.

I DO HEREBY CERTIFY that I have examined the annexed application of Water-Front Industrial Sites Company, Inc., for a grant of land under water, for beneficial enjoyment, and certify that the same is made in accordance with the provisions of the statute relating thereto: This is an application for a confirmatory grant which was erroneously made to Lucy Amelia Starr and others April 10, 1920, upon their previous application after they had conveyed the uplands adjoining to the Water-Front Industrial Sites Company, Inc., and under these circumstances I recommend that the usual rules of the Land Board be waived.

CHARLES D. NEWTON,
Attorney-General.

The standing committee reported on December 30, 1920, the following rules of practice which had been adopted this day by the said committee:

STATE OF NEW YORK
COMMISSIONERS OF THE LAND OFFICE

*Rules of Practice Before the Standing Committee on the Hearing
of Remonstrances*

Adopted December 30, 1920

1. The special standing committee of the Commissioners of the Land Office for the purpose of hearing contested applications for grants of land under water and other matters, to consist of the Attorney-General as chairman with the Treasurer and State Engineer and Surveyor shall be known as "The Committee on the Hearing of Remonstrances." It shall meet in the office of the

Attorney-General in the Capitol, at Albany. Meetings may be called at any time, at the convenience of the committee.

2. Upon the receipt by the Commissioners of the Land Office of a remonstrance against the issuing of letters patent for a grant of land under water, for which an application has been filed, the secretary of the Board shall forward a copy of these rules to the remonstrant or to his attorney.

3. Within twenty (20) days thereafter the remonstrant shall file with the Commissioners an additional formal remonstrance in writing, which shall set forth in an orderly manner the reasons for opposing the grant applied for; and if the remonstrant claims title to the lands under water or to the adjacent uplands, a copy of the patent, deed or other instrument upon which his claim is based, shall be attached to the remonstrance and shall be made a part thereof. Such remonstrance must be accompanied with proof of service of the same on the adverse party.

4. After the expiration of ten (10) days from the service of the remonstrance on the adverse party, either party may, upon ten days' notice, bring the matter to a hearing before the committee, by serving upon the adverse party a notice of hearing, substantially in the same form as the usual notice of trial, and by filing with the Attorney-General a copy thereof, with proof of service of the same upon the adverse party. If the day set for such hearing be inconvenient to said committee, notice shall be given by them to all parties of an adjourned date.

5. In all cases, applications will be heard in the order in which such notices of hearing have been filed with the clerk. Upon the failure of the remonstrant to appear, the remonstrance shall be deemed withdrawn, and the application shall be returned to the Board for action. Upon the failure of the applicant to appear, the remonstrant shall be heard and the matter decided by the Board upon all of the evidence before it.

6. When the number of applications filed with the Board is so large as to prevent their being heard on the day set, or in case a quorum of said committee cannot meet on said day, timely notice to that effect will be given to those attorneys who cannot be heard. In all such cases their presence will not be required on the day set, but they shall receive timely notice when they should appear for a hearing.

7. When the report of the committee on any application shall be presented to the full Board of the Commissioners of the Land Office for their action, either party may, as of course, appear before the Board and be heard. If either party intends to appear before the Board, he shall give timely notice to that effect to the adverse party, and shall file with the Secretary of the Board a copy of such notice, with proof of service thereof upon the adverse party.

8. In cases where, in the judgment of the committee, it is desirable, either for the convenience of witnesses or otherwise, to hold special hearings at places other than the city of Albany, hearings will be so held in their discretion and in such places and at such times as they may decide. Timely notice of such hearings will be given to both parties. But hearings will not, as a matter of right, be granted outside of the city of Albany; and the State shall be at no expense for furnishing accommodations for hearings at places other than the city of Albany.

9. These rules shall take effect immediately.

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY-GENERAL,

ALBANY, *December 30, 1920.*

BEFORE THE STANDING COMMITTEE ON THE HEARING OF
REMONSTRANCES

In the Matter of the Application of the CITY OF BUFFALO, under chapter 66 of the Laws of 1913, for a grant of land under the waters of Lake Erie between Georgia street and Jersey street.

In the Matter of the Application of THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY under section 18 of the Railroad Law and the general statutes of the State, for grants of certain lands under waters of Lake Erie, being a portion of the lands also applied for by the city of Buffalo.

GENTLEMEN.—The application of The New York Central and Hudson River Railroad Company was filed November 20, 1912. The application of the city of Buffalo was filed May 20, 1913.

Hearings have been had on these two applications by your committee, as well as by previous committees. Your committee has endeavored to procure an amicable settlement of the dispute between the city of Buffalo and the railroad company but has been unsuccessful. Your committee, therefore, would recommend that your honorable board make the following determinations on these two applications:

First.—That the Land Board authorize a grant to the city of Buffalo for a nominal consideration of so much of the lands applied for by it as lie between Jersey street and a line in continuation of the division line between Lots 39 and 40, between Caroline and Virginia streets, except so much thereof as has been set apart by the Land Board for the naval militia of the State of New York, provided that the city of Buffalo convey to the State of New York the title which the city of Buffalo now has or claims to have in the land lying between the aforesaid continuation line between said Lots 39 and 40 and the south line of Georgia street, including its uplands adjacent thereto, at the same price which was paid by the city therefor, and also upon further condition that the remonstrance by the city of Buffalo to the application of The New York Central and Hudson River Railroad Company be withdrawn, and further that the proper authorities of the city of Buffalo shall furnish to the Land Board suitable plans, to be legally adopted, for the contemplated improvements of the lands under water so to be granted to the city.

Your committee further recommends that a grant issue to The New York Central Railroad Company, successor to The New York Central and Hudson River Railroad Company, of so much of the lands applied for by them, beginning at a point on the continuation of said division line between Lots 39 and 40 and the south line of Georgia street, together with such lands as may be conveyed to the State by the city of Buffalo, upon paying the appraised value thereof, to be determined by this Board, provided, however, that the city of Buffalo shall accept the terms and conditions hereinbefore provided in the foregoing recommendation for a grant to the said city, and upon the further condition that the railroad company withdraw its remonstrance to the

application to the city of Buffalo to land lying north of a continuation of the south line of Lot 40, above mentioned, and shall with the Land Board suitable plans for contemplated improvements of the lands under water. The committee further recommends that in case the city of Buffalo shall neglect or refuse within *three* months from date, to submit to the Commissioner of the Land Office a certified copy of a resolution of the common council of the city of Buffalo, legally adopted and passed, signifying its acceptance of all the terms and conditions specified in the report, then that the grant of all the right, title and interest of the State in and to the lands under water applied for by the railroad company between the south line of Lot 40 and south line of Georgia street, be made to said railroad company upon payment into the State treasury of the appraised valuation thereof, as to be further determined by this Board.

Respectfully submitted,

CHARLES D. NEWTON,

Attorney-General

JAMES L. WELLS,

Treasurer

FRANK M. WILLIAMS,

State Engineer and Surveyor

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STATE OF NEW YORK

STATEMENT

OF

**Pardons, Commutations and
Reprieves Granted by
the Governor
1920**



**ALBANY
J. B. LYON COMPANY, PRINTERS
1921**

STATE OF NEW YORK

EXECUTIVE CHAMBER

ALBANY, *March 7, 1921.*

To the Legislature:

I have the honor to transmit a statement of the pardons, commutations and reprieves granted during the year nineteen hundred and twenty.

NATHAN L. MILLER,

Governor.

[3]

PARDONS

August 12, 1920. Frank A. Larocca. Convicted in New York county, serving sentence of five months in City Prison, New York city, for making false statement in connection with an election return in a primary election.

A number of other defendants informed against jointly with Larocca were given sentences of two months. Larocca was advised to stand trial and appealed and lost his case on appeal, and was consequently sentenced to five months. He has already served two months straight of the sentence and spent six weeks in jail before trial awaiting bail.

His previous record is without reproach. I am moved to pardon him because of the destitute condition of his wife and baby. I am informed by her that she is living on the charity of her neighbors.

The following men were pardoned, after having served their sentences, for purposes of removing disabilities — to permit them to be reinstated in their professions, to be admitted to civil service examinations or to be permitted to apply for naturalization papers:

January 13, 1920. Bernard H. Lord. Convicted in Westchester county of grand larceny, second degree; sentence suspended.

January 13, 1920. Matthew Aloï. Convicted in Kings county of attempted arson; sentenced February 23, 1908, to 14 years minimum; 14 years, 6 months maximum, Sing Sing Prison.

January 21, 1920. Joseph J. Hartnett. Convicted in Erie county of burglary, second degree; sentenced October, 1906, to Auburn Prison for 10 years. Convicted in New York county of aiding and abetting; sentenced October, 1913, to Sing Sing Prison for 1 year and 1 month.

January 31, 1920. Victor Bohm. Convicted in New York county of grand larceny, second degree; sentenced to Sing Sing Prison November 7, 1918, to 1 year minimum; 4 years, 6 months maximum.

March 9, 1920. Rocco Antoniello. Convicted in Kings county of manslaughter, first degree; sentenced November 23, 1914,

to Sing Sing Prison for 5 years minimum; 14 years, 6 months maximum.

March 9, 1920. Orlando Baldi. Convicted in New York county of bribery; sentenced January 29, 1914, to the New York County Penitentiary for 3 months.

April 20, 1920. George Haug. Convicted in New York county of grand larceny; sentenced August 3, 1904, to Sing Sing Prison for a term of 2 years.

April 20, 1920. Antonio Mangrelli. Convicted in Bronx county of manslaughter, second degree; sentenced April 22, 1907, to Sing Sing Prison for 11 years.

April 20, 1920. Theodore Herzig, alias Eddie Davis. Convicted in New York county of perjury; sentenced August 28, 1912, to Sing Sing Prison for 2 years minimum; 5 years, maximum.

April 20, 1920. Morris Kronenberg. Convicted in New York county of grand larceny, second degree; sentenced January 10, 1902 to the Elmira Reformatory.

April 30, 1920. Charles Pines. Convicted in Nassau county of manslaughter first degree, and abortion; sentenced February 18, 1919, to the New York County Penitentiary for 1 year.

May 15, 1920. Dominick Casamassino. Convicted in New York county of burglary, third degree; sentenced October, 1917, to Sing Sing Prison for 3 years, 10 months.

June 4, 1920. Vincenzo S. Buccafurri. Convicted in Kings county of manslaughter, first degree; sentenced April 1, 1911, to Sing Sing Prison for 9 years minimum; 10 years, 2 months maximum.

June 4, 1920. Benjamin Josefsberg. Convicted in New York county of criminally receiving stolen property; sentenced to the New York County Penitentiary in February 23, 1910, to 6 months.

June 4, 1920. Bartholomew Sabino. Convicted in Saratoga county of assault; sentenced February, 1913, to Clinton Prison for 5 years.

August 24, 1920. Morris Flegenheimer. Convicted in New York county of burglary, third degree; sentenced to the Elmira Reformatory August 9, 1901.

September 11, 1920. Michael Piombino. Convicted in Albany county of rape, second degree; sentenced to Clinton Prison, April 1, 1910, to 3 years minimum; 5 years maximum.

September 11, 1920. Saveria Malfitani. Convicted in Kings county of attempted grand larceny, second degree; sentenced June 13, 1916, to Sing Sing Prison for 1 year, 3 months minimum; 2 years, 3 months maximum.

September 11, 1920. Joseph Fotia. Convicted in New York county of robbery, first degree; sentenced August 1, 1908, to Sing Sing Prison for 5 years minimum; 8 years maximum.

September 23, 1920. Luigi Santora. Convicted in Westchester county of manslaughter, second degree; sentenced December, 1906, to Sing Sing Prison for 5 years.

November 26, 1920. Samuel Rosenberg. Convicted in New York county of attempted grand larceny; sentenced December 2, 1903, to Sing Sing Prison for 2 years.

November 26, 1920. Henry Crowl. Convicted in Erie county of robbery, second degree; sentenced to the Elmira Reformatory.

November 26, 1920. Julius Gordon. Convicted in Onondaga county of arson; sentenced January 12, 1913, to Auburn Prison for 2 years, 2 months minimum; 4 years, 2 months maximum.

November 26, 1920. Salvatore Coppola. Convicted in New York county of attempted grand larceny, second degree; sentenced June 21, 1911, to Sing Sing Prison for 1 year, 3 months minimum; 2 years, 4 months maximum.

November 26, 1920. Henry S. Trivelli. Convicted in Bronx county of robbery, first degree; sentenced April 16, 1915, to Sing Sing Prison for 7 years, 6 months minimum; 19 years, 4 months maximum.

November 26, 1920. Andrew Tirdley. Convicted in New York county of bigamy; sentenced May 27, 1910, to Sing Sing Prison for 1 year minimum; 2 years maximum.

November 26, 1920. Giuseppi Costa. Convicted in Westchester county of assault; sentenced February 10, 1913, to the New York Penitentiary for 10 months.

November 26, 1920. Joseph Ruggiero. Convicted in New York county of attempted grand larceny, first degree; sentenced July 31, 1907, to 3 years, 2 months minimum; 4 years, 3 months

maximum, to Sing Sing Prison. Convicted in New York county of feloniously carrying a pistol; sentenced April 27, 1914, to 3 months in New York County Penitentiary.

December 6, 1920. Marcellino Saudo. Convicted in New York county of manslaughter, first degree; sentenced January 1, 1920, to 20 years in Sing Sing Prison.

December 6, 1920. Paolo Olivieri. Convicted in New York county of bigamy; sentenced July 29, 1908, to 1 year in New York County Penitentiary.

December 30, 1920. John Nardi. Convicted in Kings county of assault; sentenced to New York County Penitentiary on February 15, 1915, to 3 months.

COMMUTATIONS

January 8, 1920. Morris Raskowitz. Convicted in Kings county of attempted murder, first degree, and sentenced in January, 1915, to Sing Sing Prison for 8 years minimum; 10 years, 4 months maximum.

Committed to 4 years, 11 months and 19 days minimum; 10 years, 4 months maximum.

On December 19, 1919, the wife of this man wrote me a very appealing letter, stating that she was in a sanatorium for treatment of tuberculosis at Otisville, and that she expected to be discharged in a short time; that since her husband has been in prison she has been in two different places for treatment of her disease, and had been discharged from one and was left destitute in the streets; was picked up and sent to the institution where she now is.

On receiving that communication I again submitted the case of Raskowitz to the judge and district attorney for such report as they might see fit to make to me on the facts presented by his wife. On December 26, 1919, I received a report from Judge Jaycox, who presided at the trial, and he stated that the letter was a very appealing one (the letter from the wife) and that if he had the right he would grant clemency to the prisoner; further stating that in his opinion the punishment which Raskowitz had undergone might be considered fairly adequate, and he

ved no miscarriage of justice would result if he were released. The district attorney of Kings county takes substantially the same view of the matter.

After considering the situation thoroughly I concluded that it is a case meriting Executive clemency, so I decided to commute the sentence of the prisoner so that he may be released under and subject to the jurisdiction of the Parole Board, thereby permitting him to take care of his wife who is badly in need of his assistance.

January 9, 1920. Matthew Gardner. Convicted in Queens county of arson, third degree and sentenced in April, 1919, to minimum of 3 years; 6 years maximum.

Commuted to 9 months and 12 days minimum; 6 years maximum.

Recommended by District Attorney Leary, who prosecuted the case and also by Fire Marshal Brophy of New York City. The district attorney after stating the facts in his report to me, adds after the discovery of the fire and prior to his indictment and conviction, and during the trial of the main criminal, he rendered valuable service to the State in the prosecution of the principal involved, and that in his opinion that the fact of his conviction and the degradation inflicted upon a very intelligent man by his sentence and the time that he has already served are sufficient punishment for his share in the crime."

The principal that Gardner helped to convict received a minimum of 10 years and a maximum of 20. In view of the fact that Gardner has a wife and a child twenty months old, who are in need of his assistance, and taking into consideration the recommendations I have commuted this man's sentence so that he might be released under and subject to the jurisdiction of the Parole Board.

January 15, 1920. George Glenn. Convicted in New York county of burglary, second degree, and sentenced in April, 1911, to Sing Sing Prison for a definite term of 20 years.

Commuted to 8 years, 9 months minimum; 20 years maximum.

This man has been severely punished by the time already served, and Mrs. Maud Ballington Booth of the Volunteer Prison League, New York City, who has for several years been following

this case, is firmly convinced that the prisoner has entirely reformed. He has never been punished while in prison, and has always done his work in a manner satisfactory to the prison officials.

Taking into consideration the fact that he is to go out on parole and has people interested in his welfare I have commuted his sentence. If Glenn violates his parole he can be returned to prison and be compelled to serve out the balance of his maximum term, which is 20 years.

January 15, 1920. Meyer Hoskowitz. Convicted in Kings county of burglary, first degree, as a second offense, and sentenced in December, 1913, to Sing Sing Prison for life.

Commutated to 6 years, 1 month minimum; life maximum.

Recommended by Judge Tierney who presided at the trial, who writes to me that he believes that the time served by Hoskowitz has been an adequate punishment for the offense for which he was convicted.

Taking into consideration the recommendation of the judge and the fact that this man, if he violates the terms of his parole can be returned to prison and be kept there for the balance of his life, I have commuted his sentence.

January 15, 1920. Alfred Steinhauer. Convicted in Queens county of robbery, first degree, and sentenced in February, 1913, to Sing Sing Prison for a definite term of 20 years.

Commutated to 4 years, 11 months and 6 days minimum; 20 years maximum.

Recommended by Judge Humphrey and also by the district attorney of Queens county, who prosecuted the case. Judge Humphrey advises me that the sentence imposed was a severe one for the reason that he was a second offender and that under those conditions he had no discretion to exercise. He states that he believes in view of the fact that he has been in prison nearly five years that he had been sufficiently punished and recommends his release.

Acting upon the recommendation of the judge and district attorney I have commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

January 15, 1920. Albert Mazey. Convicted in Bronx county

of burglary, third degree, and sentenced in January, 1918, to Sing Sing Prison for a period of 5 years.

Commuted to 2 years, 4 days.

Since this man has been in prison he has developed osteosarcoma (cancer). He was operated on in Auburn Prison in August, 1919, and within a very few weeks after that the cancer returned and grew very rapidly. He has been under treatment at Sing Sing Prison and I am advised by the prison physician there that he does not think it possible to stay the progress of the disease, owing to the fact that the prisoner is 20 years of age and that this particular form of cancer is very fatal. Since December, 1919, he has developed a cancer in the hip, and the physician of Sing Sing Prison expects he will also have the disease in other portions of the body. He also states that the prisoner, in his opinion, will live but a very few months.

This man has people who are willing and able to take care of him, on the outside, and I have accordingly commuted his sentence so that he will be released immediately.

January 15, 1920. Katherine Ferenzy. Convicted in New York county of violation of the White Slave act, and sentenced by Judge Rosalsky in June, 1914, to Auburn Prison, for 10 years minimum; 15 years maximum.

Commuted to 5 years, 8 months and 5 days minimum; 15 years maximum.

This woman's husband was convicted at the same time and on the same charge, but he received a sentence of 7 years minimum; 15 years maximum, which permits of his being released by the Parole Board on March 15, 1920. Deportation warrants have been filed by the United States authorities in both of these cases, and for the purpose of permitting Katherine Ferenzy to be deported at the same time as her husband is, I have reduced her sentence as above shown.

January 19, 1920. Abraham Bernstein. Convicted in Westchester county of robbery, first degree, and sentenced in April, 1915, to a minimum term of 8 years; maximum of 12 years.

Commuted to 4 years, 8 months and 25 days minimum; 12 years maximum.

Recommended by the assistant district attorney who prosecuted the case, and also by the Honorable Frederick E. Weeks who was the district attorney at the time of the conviction. This man's conduct has been uniformly good in prison and the Warden of the prison where he now is confined, recommends a parole.

In view of the recommendations and the fact that he has been severely punished, I have commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

January 19, 1920. Henry B. Ward. Convicted in Otsego county of murder, second degree, and sentenced in March, 1915 to Auburn Prison for a term of 20 years minimum; life maximum.

Committed to 4 years, 10 months and 22 days minimum; life maximum.

Judge McCann who presided at the trial of this man in December, 1918, recommended to a former governor that he believed that the ends of justice would not be affected if this man were released so that he might spend his few remaining years outside of prison walls. This man at the time of his conviction was 83 years old; he is now 89. His health has been poor and he has been in the hospital ever since his imprisonment, and is senile. He has a son who is able and willing to take care of him upon his release, and I have accordingly commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

January 21, 1920. Otto Susdorf. Convicted in Erie county of assault, first degree, and sentenced in October, 1908, to Auburn Prison, for a definite term of 17 years. Susdorf owed the State at the time of receiving this sentence 7 years, 6 months and 10 days lost commutation, making his term 24 years, 6 months and 10 days to serve.

Committed to 11 years 3 months and 12 days minimum; 15 years maximum.

This man has been a model prisoner and has never been punished during the long period served; his parole is recommended by the Warden of the prison. In addition to this, the physical condition of the prisoner is very poor. The prison physician is

his statement to me says: "He is suffering from locomotor ataxia and though we have given him intensive treatment he shows little improvement. Associated with this condition there is increasing deafness and failing vision, so that he will eventually become helpless."

Taking into consideration the physical condition of the prisoner and the time served, I have concluded that it is a proper case for the exercise of clemency, and have commuted the sentence of this man so that he may be released under and subject to the jurisdiction of the Parole Board.

January 23, 1920. Solomon Weberman. Convicted in New York county of criminally receiving stolen property, first degree, and sentenced by Judge Nott in February, 1918, to Sing Sing Prison for a definite term of 5 years.

Commutated to 1 year, 11 months and 15 days minimum; 5 years maximum.

Recommended by Judge Nott solely on the ground of the man's physical condition. It appears that this man is suffering from several disorders, the most serious of which is a goiter, which renders him unable to do any work and which the doctors say, can be removed by a radical operation.

In view of this man's physical condition, the judge thinks that the ends of justice would be subserved by a commutation of sentence, and I have accordingly acted upon that recommendation and have commuted the prisoner's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

January 23, 1920. William F. Bellosa. Convicted in Oneida county of burglary, third degree; grand larceny, second degree, and burglary, third degree—three separate charges, and was sentenced for three terms of 2 years and 6 months each, minimum; 5 years maximum.

Commutated to 3 years, 9 months and 7 days minimum; 15 years maximum.

Recommended by district attorney of Oneida county and by Judge Devendorf, who presided at the trial. Bellosa's physical condition is poor; he has valvular heart disease. The Warden states to me, "He has never been strong enough to do any hard work, but what has been given him, he has done willingly, and

his conduct is good." His mother is in poor health and it was thought by the judge and district attorney in view of her health and his own physical condition, that he could properly be released, and I have accordingly commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

February 4, 1920. Thomas Flynn. Convicted in New York county of murder, second degree, and sentenced in May, 1907, to Sing Sing Prison, for a minimum term of 20 years; maximum of life.

Committed to 12 years and 9 months minimum; life maximum.

This man has been severely punished by the term served and Judge Rosalsky, who presided at the trial, in December, 1918, made a recommendation wherein he stated that in view of all the circumstances of the case he was of the opinion that the prisoner had been sufficiently punished, and recommended clemency in his behalf.

Flynn has never been punished for infraction of the prison rules. If his sentence were not reduced he would have to serve something like four years more. In view of his excellent prison record and the recommendation of the judge, I have commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

February 4, 1920. Frank Ferrara. Convicted in New York county of murder in the first degree, and sentenced in April, 1916, to be executed. Thereafter the case was appealed to the Court of Appeals and the judgment of the trial court affirmed, and the date of the execution was fixed for the week beginning April 16, 1917.

Thirteen respites have been granted in the Ferrara case; the last one will expire February 9, 1920. Eight of these respites were granted in 1917 and 1918, and five were granted in 1919. These respites were granted for the reason that until the entire Barnett Baff investigation had been completed, it was important that Ferrara's case be not disposed of.

I am commuting the sentence of Ferrara to life imprisonment upon the written recommendation of the attorney-general, in

which recommendation the attorney-general states that Ferrara rendered service to the State. On the advice and recommendation of the attorney-general, I have reached the conclusion that the interests of justice can be best served by commuting the sentence of Ferrara to life imprisonment, and I have, therefore, acted accordingly.

February 4, 1920. Joseph Cohen. Convicted in New York county in August, 1917, of murder in the first degree, and sentenced to be executed. Thereafter his case was appealed to the Court of Appeals, the verdict of the trial court was affirmed and the date of his execution was fixed for the week beginning July 15, 1918.

Seven respites have been granted in the Cohen case; three of them during the year 1918 and four during the year 1919. The last respite will expire February 9, 1920. These respites were granted for the purpose of postponing the final judgment of the court until other cases, growing out of the same transaction, could be finally determined.

On the record, which is all there is before me aside from the facts adduced in the John Doe proceeding, I have no doubt about the guilt of Cohen. If I had, there would be a further duty devolved upon me. The question presented to me is whether or not the State should exact in Cohen's case the extreme penalty of the law. I believe that the ends of justice will be served by life imprisonment. I am helped to this conclusion not only by the recommendation of Judge McIntyre (who presided over the John Doe proceedings instituted by the district attorney of New York county during 1919, to ascertain whether perjury had been committed on the trial of Cohen), wherein he says: "It is my conclusion from all the facts and circumstances surrounding the prosecution of Joseph Cohen and all other defendants charged with the murder of Barnett Baff, that the interests of public justice would be served by commuting the sentence of death of Joseph Cohen," but also by the fact that his conviction was not unanimously affirmed by the Court of Appeals. Having in mind that by my action Cohen will spend the rest of his life in prison, I feel that the ends of justice are amply sustained, and I therefore commute his sentence to life imprisonment.

February 5, 1920. John Schipani. Convicted in Kings county in April, 1914, and sentenced to the penitentiary for a term of 1 year for the crime of carrying dangerous weapon. This sentence was to become effective after he had served a term in prison for a different crime. He has served his term in prison and five months on his sentence in the New York County Penitentiary. Judge Dike, who sentenced him on both charges, advises me under date of January 15, 1920, as follows:

"It seems to me that under the circumstances he has paid his debt to the State and that his case might be a very proper one for executive clemency, and in case of such action on your part I should most heartily acquiesce."

In view of the judge's recommendation and also the punishment undergone by Schipani, I have commuted his sentence so that he may be released.

February 6, 1920. Edward Brady. Convicted in New York county in March, 1913, for feloniously carrying revolver, as a second offense, and sentenced by Judge Mulqueen to Sing Sing Prison for a definite term of 13 years.

Committed to 6 years, 10 months and 27 days minimum; 13 years maximum.

This man has had a uniformly good record since he has been in prison, and Judge Mulqueen, who sentenced him, advises me that inasmuch as the law has been changed since he sentenced the prisoner, making the maximum term for which he could impose the sentence under like conditions — seven years — if the man's prison conduct is good he would recommend clemency.

In view of the prisoner's good conduct in prison and the statement of the judge, I have commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

February 6, 1920. James Strang. Convicted of attempted robbery, first degree, in New York county, and sentenced in January, 1915, by Judge Rosalsky to Sing Sing Prison for a definite term of 10 years.

Committed to 5 years and 15 days minimum; 10 years maximum.

Judge Rosalsky, who sentenced this man, advised me under date of January 15, 1920, as follows:

"From my investigation I find that the mother of the prisoner is an invalid and has suffered considerably because of the loss of support that she formerly received from him. I am also convinced that the prisoner fully appreciates that his past lapses from rectitude have been unprofitable, and that his confinement for about five years will be an everlasting lesson to him not to yield again to temptation.

"In order that the prisoner should be afforded an opportunity to retrace his steps so that he may begin life anew, I respectfully recommend that your excellency commute his sentence to the term of imprisonment which he has undergone to date."

In view of the recommendation of the judge, I have commuted Strang's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

February 6, 1920. Giovanni Bonifacio. Convicted in Montgomery county of murder, second degree, and sentenced in November, 1904, to life imprisonment. This sentence was changed by the Law of 1907 to a minimum of 20 years; life maximum.

Commuted to 15 years and 3 months minimum; life maximum.

This man has served as long as he would have to serve under the law as it exists today. The prisoner has never been punished while in prison.

Judge Kellogg, who presided at the trial of this man, writes me that he believes that the due administration of justice would suffer no detriment if it should be determined that his application is deserving of favorable consideration. He further states that if the man's record in prison is good, he would recommend clemency.

In view of the excellent prison conduct of this prisoner and the recommendation of the judge, I have commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

February 11, 1920. Frederick Vance. Convicted in Oneida county of robbery, first degree, and sentenced in 1910 to Auburn Prison for a definite term of 18 years and 6 months.

Committed to 10 years minimum; 18 years and 6 months maximum.

Recommended by Judge Ross, who presided at the trial. Vance has served since that recommendation three additional years in prison, and taking into consideration the judge's recommendation, I have commuted the prisoner's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

February 11, 1920. Samuel J. Dixon. Convicted in Schenectady county of burglary, third degree, and grand larceny in second degree, and sentenced in March, 1917, to a definite term of five years in Clinton Prison.

Committed to 2 years, 10 months and 23 days minimum; 5 years maximum.

Recommended by the district attorney of Schenectady county.

Dixon would be released by expiration of his term on July 2, 1920. He has a little over four months yet to serve of his sentence. By my action now he will be released under and subject to the jurisdiction of the Parole Board and will be under the supervision for a period of at least a year, and if he fails to behave himself he can be returned to prison to serve out the balance of his unexpired term.

February 11, 1920. William Shaughnessy. Convicted in Albany county of robbery, first degree, and sentenced in March, 1918, to a term of 6 years minimum; 10 years and 6 months maximum.

Committed to 1 year, 11 months minimum; 10 years and 6 months maximum.

This prisoner, who is 49 years of age, has always lived in Troy, N. Y., where he worked since he was eight years old. He was with one firm for 14 years. He has a wife and family to support and his wife informed me in a personal interview that when she married this man she had three children, by a former husband, and that he (the prisoner) had always supported her and her children.

Taking into consideration the condition of the family of the prisoner and the fact that he has been severely punished by the term already undergone in prison, I have reached the conclusion that clemency in this case may properly be exercised. I have commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

February 11, 1920. Walter J. Williams. Convicted in New York county of robbery, first degree, and sentenced in August, 1912, to Sing Sing Prison to a definite term of 14 years and 6 months.

Commutated to 7 years, 6 months and 6 days minimum; 14 years and 6 months maximum.

Judge Rosalsky, who presided at the trial, in a communication dated October 25, 1917, recommended clemency in behalf of the prisoner. He stated then that in view of all the circumstances of the case, he was satisfied that the ends of justice would be served if commutation were granted. Since that date this man has served something like two years and four months.

Taking into consideration the severe sentence imposed and the fact that my action at this time will put him under the supervision of the Parole Board, and if he fails to maintain the conduct prescribed by the Board, he can be returned to prison, I have reached the conclusion that it is proper to commute his sentence.

February 12, 1920. Bruno Rothenburg. Convicted in New York county of arson, third degree, and sentenced in December, 1912, to Sing Sing Prison for 7 years and 6 months minimum; 11 years and 6 months maximum.

Commutated to 5 years, 10 months and 27 days minimum; 11 years and 6 months maximum.

This commutation is granted for the express reason that Rothenburg while in prison had been injured, by a landslide when working on the prison site, and the prison physician advises me, under date of January of this year, that he (the prisoner) has never fully recovered from the injury and that he never will; that he had three strokes of paralysis lasting for periods of several days. He further says that the prisoner has been in a hospital almost continuously since that accident and will always remain a patient in the hospital.

Taking into consideration the injury sustained and the fact that he has people who are willing and able to take care of him, I have commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

February 13, 1920. Adolph Frier (Freier). Convicted in Westchester county of manslaughter, second degree, and sentenced in December, 1918, to Sing Sing Prison for 3 years minimum; 6 years and 6 months maximum.

Commuted to 1 year, 1 month and 15 days minimum; 6 years and 6 months maximum.

Recommended by Judge Tompkins, who presided at the trial, and by the district attorney who prosecuted the case. Judge Tompkins advises me that he informed Frier at the time of sentence that after he had served one year, he would recommend clemency in his behalf. The judge has so recommended it.

Taking into consideration the positive recommendation of both the judge and district attorney, I have commuted his sentence so that this prisoner may be released under and subject to the jurisdiction of the Parole Board.

February 13, 1920. Patrick J. Donahugh (Donohue). Convicted in Erie county of robbery, third degree, and sentenced in January, 1919, to Auburn Prison for a term of 2 years minimum; 4 years and 6 months maximum.

Commuted to 1 year and 20 days minimum; 4 years and 6 months maximum.

This man's minimum time would expire in July of this year, and I am therefore reducing his sentence by a little over four months.

After a careful consideration of all the facts, as reported to me in this case, it seems to me that the ends of justice have been met by the imprisonment already undergone by the prisoner, and I have therefore commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board. If he does not behave himself he can be returned to prison to serve out the balance of his unexpired term.

February 13, 1920. Antonio Spiezio. Convicted in Albany county of murder, second degree, and sentenced May 22, 1905, to Clinton Prison for 20 years minimum; life maximum.

Commuted to 14 years, 8 months, 7 days minimum, life maximum.

The district attorney of Albany county in a communication to me dated November, 1919, after setting forth the facts, makes a positive recommendation; that this man served several years longer than he would have been compelled to serve had he been convicted of manslaughter, first degree, and from the facts, he says, that if the prisoner had been so convicted — of manslaughter — the ends of justice would have been met, and that he therefore recommends clemency.

Taking into consideration the recommendation and all the facts of the case, I have accordingly commuted the sentence of the prisoner so that he may be released under and subject to the jurisdiction of the Parole Board.

February 16, 1920. Walter B. Severance. Convicted in New York county of perjury and sentenced in January, 1918, to Sing Sing Prison for 5 years minimum; 10 years and 6 months maximum.

Commuted to 2 years minimum; 10 years and 6 months maximum.

Recommended by Judge Nott, who presided at the trial, who advises me that after this man had served two years he believes the ends of justice would not be injured if the sentence were commuted. Severance has served that length of time and in view of the number of persons interested in him, I have accordingly commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

February 17, 1920. Vincenzo Stile. Convicted in Kings county of robbery, first degree; grand larceny, first degree, and assault, second degree, and sentenced in June, 1915, to Sing Sing Prison for 10 years minimum; 16 years maximum.

Commuted to 4 years, 8 months and 2 days minimum; 16 years maximum.

Recommended by Judge Manning, who presided at the trial, who advises me under date of February 13, 1920, "That in view of the time served and the fact that the prisoner has never been punished in prison and never had a previous criminal record, he believes the ends of justice have been met by the time served."

Acting upon the recommendation of Judge Manning, I have commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

February 17, 1920. Charles Benfield. Convicted in Westchester county of grand larceny, second degree, and assault, second degree, as a second offense, and sentenced in March, 1919, to Sing Sing Prison for a definite term of 15 years.

Committed to 5 years, 10 months and 25 days minimum; 15 years maximum.

This man has had a good prison record and his work in prison has been entirely satisfactory. The man against whom Benfield committed the crime has strongly recommended that he believe Benfield has paid a sufficient penalty and if his conduct in prison has been good, he believes that he should receive executive clemency.

Taking into consideration the attitude of the complainant in the case and the excellent prison conduct of Benfield, I have commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

If Benfield fails to live up to the terms of his parole he will be returned to prison and be compelled to serve out the balance of his unexpired term.

February 17, 1920. Richard Meincke. Convicted in Kings county of criminally receiving stolen goods and sentenced in February, 1919, to Sing Sing Prison for 2 years and 6 months minimum; 5 years and 6 months maximum.

Committed to 11 months and 23 days minimum; 5 years and 6 months maximum.

Since this man has been in prison he has lost his father who leaves his mother without any one to assist her or to take care of her.

Taking into consideration the above fact, I have commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

If Meincke fails to live up to the terms of his parole he will be returned to prison and be compelled to serve out the balance of his unexpired term.

February 19, 1920. Frederick Wolfrum. Convicted in New York county of forgery, second degree, and sentenced in March, 1919, to Sing Sing Prison for a definite term of 15 years.

1919, to Sing Sing Prison for 3 months minimum; 6 years and 6 months maximum.

Commuted to 10 months and 28 days minimum; 6 years and 6 months maximum.

Restitution was made to the parties injured of all the property which the prisoner and his wife had. Wolfrum has a wife and two small children, and it is impossible for the wife to take care of these children.

Taking into consideration the fact that the people injured by the crime are willing that Wolfrum should be released, and also the fact that his family needs his help very much, I have commuted the sentence so that he may be released under and subject to the jurisdiction of the Parole Board. If he fails to behave himself or if he violates his parole, he can be returned to prison to serve out the balance of his maximum term — 6 years and 6 months.

February 26, 1920. Clement Pacyna. Convicted in Erie county of robbery, first degree, and sentenced in March, 1919, to Auburn Prison for 10 years minimum; 19 years and 6 months maximum.

Commuted to 1 year, 1 month minimum; 19 years, 6 months maximum.

Granted on the recommendation of the district attorney of Erie county, who informs me that one of the other men implicated in the same crime was sentenced to the Elmira Reformatory, where he may earn his discharge in about 13 months, and the district attorney believes that this man ought not to serve longer than his codefendant.

Acting upon the recommendation of the district attorney, I have commuted the sentence of Pacyna so that he may be released under and subject to the jurisdiction of the Parole Board.

February 26, 1920. Theodore Dixon. Convicted in Bronx county of murder in the first degree in June, 1919, and sentenced to be electrocuted. The date of electrocution has been fixed for the week beginning with March 15, 1920.

The case was passed upon by the Court of Appeals and judgment of the trial court was affirmed.

There is not the slightest doubt about the guilt of Dixon. That has been settled by the trial court and the Court of Appeals.

However, at the time Dixon committed the crime, he was but 16 years of age, and is now 17.

Solely on account of his age, I am commuting Dixon's sentence to life imprisonment.

March 2, 1920. Preston Henderson. Convicted in New York county of murder in the second degree, and sentenced in March, 1904, to Sing Sing Prison for life.

Commutated to 16 years and 15 days minimum; life maximum.

Recommended by Judge Kenefick, who presided at the trial.

This prisoner has served 1 year and 15 days longer than he would have to serve under a conviction of murder in the second degree today. He has always had an excellent prison record. Mrs. Maud Ballington Booth, of the Volunteer Prison League, of New York city, is interested in this man and will look after him when released. Taking into consideration the recommendation of the judge and the fact that he will be looked after, I have commuted the prisoner's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

March 2, 1920. Newton Tomlins. Convicted in Rockland county of murder, second degree, and sentenced in June, 1915, to 20 years minimum; life maximum.

Commutated to 4 years, 9 months and 16 days minimum; life maximum.

Recommended by both Judge Tompkins, who presided at the trial, and by the district attorney, who prosecuted the case. In view of such recommendations I have accordingly commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

March 2, 1920. Gaetano Marino. Convicted in Erie county of murder, second degree, and sentenced in September, 1912, to Auburn Prison for 20 years minimum; life maximum.

Commutated to 7 years, 5 months and 22 days minimum; life maximum.

Recommended by Judge Marcus, who presided at the trial, and by the district attorney of Erie county, who prosecuted the case. In view of such recommendations I have commuted his sentence so that he might be released under and subject to the jurisdiction of the Parole Board.

March 2, 1920. Jacob Saul. Convicted in Kings county for criminally receiving stolen goods, and sentenced in May, 1918, to Sing Sing Prison for 1 year and 6 months minimum; 5 years maximum.

Commutated to 1 year and 4 days minimum; 5 years maximum.

I am reducing this man's sentence by a little over five months. Saul has a family who needs his assistance very much, and I have concluded to place him under and subject to the jurisdiction of the Parole Board.

March 4, 1920. Fred Fredericks. Convicted in Bronx county of robbery, first degree, and sentenced in December, 1914, to Sing Sing Prison for 16 years and 8 months.

Commutated to 5 years, 2 months and 27 days minimum; 16 years and 8 months maximum.

Judge Gibbs, who imposed the sentence, advises me under date of February, 1920, that he recommends full executive clemency.

In view of the judge's recommendation, I have accordingly reduced this man's sentence to the time actually served, so that he may be released under and subject to the jurisdiction of the Parole Board.

March 4, 1920. Clarence LaPoint. Convicted in Washington county of murder, second degree, and sentenced in July, 1908, to Clinton prison for 20 years minimum; life maximum.

Commutated to 11 years, 8 months and 11 days minimum; life maximum.

This man has had an excellent prison record; never been punished during his more than 11 years in prison. He has a father and mother who are advanced in years and incapacitated to the extent of supporting themselves.

In view of LaPoint's prison record and the fact that the assistant district attorney, who helped prosecute the case, recommends clemency, I have reduced the prisoner's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

March 4, 1920. William Pivrotto. Convicted in New York county of forgery, second degree, and sentenced in February, 1918, to Sing Sing Prison for 3 years minimum; 5 years and 6 months maximum.

Commutated to 2 years, 1 month and 2 days minimum; 5 years and 6 months maximum.

This man's minimum term would expire on May seventeenth of this year. Judge Nott, who sentenced the prisoner, advises that he believes the prisoner should serve at least two years of his minimum term, and that two years has elapsed. Owing to the recommendation of the judge, I have commuted this prisoner's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

March 4, 1920. John McClure. Convicted in Bronx county of robbery, first degree, and sentenced in March, 1914, to Sing Sing Prison for 8 years and 6 months minimum; 16 years and 6 months maximum.

Commutated to 6 years minimum; 16 years and 6 months maximum.

This man has been severely punished by the time already served, and Judge Gibbs, who sentenced the man in September, 1918, recommended to my predecessor that McClure should receive executive clemency.

In view of the judge's recommendation, I have commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

March 4, 1920. John Kravchak. Convicted in New York county of grand larceny, first degree, and sentenced in 1918 to Sing Sing Prison for 5 years minimum; 10 years maximum.

Commutated to 1 year, 7 months and 15 days minimum; 10 years maximum.

Recommended by Judge Mulqueen, who sentenced the prisoner, who states in a communication to me under date of January, 1920, that this man rendered valuable assistance to the State as a witness in other cases, and, in view thereof, is entitled to clemency.

Acting upon the judge's recommendation, I have commuted this prisoner's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

March 4, 1920. Patrick Bolger. Convicted in New York county of robbery, first degree, and sentenced in 1913 to Sing Sing Prison for 10 years minimum; 20 years maximum.

Commuted to 6 years, 10 months and 29 days minimum; 20 years maximum.

Recommended by Judge Foster, who sentenced this man, who advises me that he believes no public interests would be prejudiced if sentence were commuted to time already served and he were released on parole.

Acting upon the recommendation of the judge, I have commuted Bolger's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

March 4, 1920. Marquis Curtis. Convicted in Kings and Clinton counties of possessing burglar's tools, and assault, first degree, and sentenced on the first charge for 9 years and 10 months; on the second charge for 10 years.

Commuted to 11 years and 10 months minimum; 19 years and 10 months maximum.

This man has been severely punished for the crimes committed, and Mrs. Maud Ballington Booth, of New York city, is deeply interested in him and agrees to take care of him upon release. I have, therefore, commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

March 4, 1920. Ruben Cohen. Convicted in New York county of grand larceny, second degree, and sentenced in January, 1919, to Sing Sing Prison for 2 years and 6 months minimum; 4 years and 6 months maximum.

Commuted to 1 year, 1 month and 15 days minimum; 4 years and 6 months maximum.

One of the other men engaged in this crime at the same time was sentenced to the Elmira Reformatory, where he can earn his release after serving 12 months and 20 days. In my judgment, Cohen should not be compelled to serve longer than the other defendant, and I have, therefore, commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

March 4, 1920. Peter Cullen. Convicted in New York county of robbery in the third degree, and sentenced in November, 1914, to 5 years. At the time Cullen was returned to prison he owed 2 years, 10 months and 15 days, lost commutation on a previous sentence.

Commuted to 5 years, 3 months and 23 days minimum; 7 years and 10 months maximum.

This man has served the entire sentence for his present offense, and 3 months and 23 days of his lost commutation. He has been severely punished and I am commuting his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

March 10, 1920. Joseph S. Mason. Convicted in Rensselaer county of grand larceny, first degree, and sentenced in June, 1919, to Clinton Prison for 1 year and 6 months minimum; 2 years and 6 months maximum.

Commuted to 8 months and 26 days (actual time served).

At the time of conviction of this man, his wife was ill and since that time she has attempted to take care of their farm, including the stock thereon, and as a result is now in the hospital in Schenectady. This man has about four months longer to serve, and to relieve the condition of his family affairs, I have commuted his sentence so that he may be released immediately.

March 15, 1920. Floyd W. Babcock. Convicted in Tompkins county of rape, in the second degree, and sentenced in October, 1917, to Auburn Prison for 5 years minimum; 9 years and 9 months maximum.

Commuted to 2 years, 5 months and 9 days minimum; 9 years and 9 months maximum.

This man has had an excellent prison record, and having in mind that feature, together with the fact that he has a crippled mother who relies upon him absolutely for support, also the fact that he has served a substantial portion of his minimum sentence, I have commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

March 15, 1920. Felix A. Haley. Convicted in New York county of grand larceny, second degree, and sentenced in April, 1918, to Sing Sing Prison for a definite term of 5 years.

Commuted to 2 years minimum; 5 years maximum.

Recommended by Judge Nott, who recommends that Haley's sentence be commuted after he has served two years, which would be up in April of this year. In view of the judge's recommendation, I have commuted this man's sentence so that he may be

released under and subject to the jurisdiction of the Parole Board.

March 15, 1920. Charles Brennan. Convicted in Rensselaer county of grand larceny, first degree, and sentenced in March, 1919, to Clinton Prison for 2 years and 2 months minimum; 3 years and 4 months maximum.

Commutated to 1 year and 9 months minimum; 3 years and 4 months maximum.

Recommended by the Warden of Great Meadow Prison, where Brennan is now confined. It appears from the statements from the judge and district attorney that Brennan was under the influence of an older man, and having in mind this fact, also the fact that Brennan has served a substantial portion of his sentence, I have commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

March 22, 1920. John Gargan. Convicted in Kings county of murder in the second degree, and sentenced in May, 1910, to Sing Sing Prison for a term of 20 years minimum; life maximum.

Commutated to 9 years, 10 months and 6 days minimum; life maximum.

Recommended by Judge Kelly, who presided at the trial, who advises me that he believes that this man has been sufficiently punished by the time served. The prison authorities at Sing Sing Prison state that this prisoner has never been punished for infraction of the rules since he was received in prison; that he has during his time there rendered valuable services to the State, and the former Warden of Sing Sing Prison states in a communication to the Governor that if he were vested with the power to commute sentences, he would not hesitate to commute this man's, so that he might be released under and subject to the jurisdiction of the Parole Board.

In view of the recommendations in this case, and the facts as stated, I have commuted Gargan's sentence so that he may be released on parole. If he fails to behave he can be returned to prison to serve out the balance of his unexpired term.

March 22, 1920. Walter Hayes. Convicted in New York county of the crime of carrying a concealed weapon, after a for-

mer conviction of a felony, and sentenced in January, 1919, Sing Sing Prison for a term of 6 years and 8 months.

Commuted to 1 year, 1 month and 23 days minimum; 6 years and 8 months maximum.

I am commuting this man's sentence entirely owing to his physical condition. In August, 1919, he was operated on at Sing Sing Prison for mastoiditis, and since that time he has not shown improvement; in fact, the prison authorities informed me that his health is in a precarious condition. The wound has to be dressed daily, and in addition to this he has developed tubercular trouble. It is stated, also, that his brother and sister are unable and willing to take care of him upon his release and even to take him to another climate.

Taking into consideration the facts surrounding this case, as set forth, I have commuted the sentence of Hayes so that he may be released under and subject to the jurisdiction of the Parole Board.

March 26, 1920. Aubray Wilson. Convicted in Monroe county of burglary, third degree, and sentenced in October, 1919, to one year in the Monroe County Penitentiary. .

Commuted to 5 months and 2 days actual time.

I am advised by the judge who sentenced this man and by the district attorney, also, and the sheriff of the county, that the man's health is in a precarious condition; that he is suffering greatly from ulcers of the stomach.

Acting upon the advice of these officials and of the jail physician, Monroe county, I have commuted the sentence of Wilson so that he may be released immediately.

March 26, 1920. Daniel J. Lewis. Convicted in New York county of manslaughter, second degree, and sentenced in March, 1919, to Sing Sing Prison for a term of 1 year and 6 months minimum; 2 years and 4 months maximum.

Commuted to 10 months and 19 days, actual time served.

Lewis was employed as a chauffeur, and while driving a automobile accidentally struck a man employed in the Street Cleaning Department and killed him. Lewis was never arrested or convicted of any crime prior to this one. He has a wife and three children. The children are five years, three and one-half

years and one year of age. This man's minimum time would be up on June twenty-first of this year. His family is in dire need of his assistance.

Taking into consideration all the facts and circumstances of this case, I have commuted this man's sentence so that he may be released to take care of his family.

April 2, 1920. Vincenzo Nasca. Convicted in New York county of the crime of attempted kidnapping, and sentenced in April, 1917, to Sing Sing Prison for 6 years minimum; 15 years maximum.

Commutated to 3 years and 15 days minimum; 15 years maximum.

Judge Rosalsky, who presided at the trial, recommends that this man's sentence be commuted so that he would be released after serving three years — actual time.

Acting upon the recommendation of the judge, I have reduced this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

April 2, 1920. Frederick Underhill. Convicted in Bronx county of assault, second degree, and sentenced in January, 1919, to Sing Sing Prison for a definite term of 4 years.

Commutated to 1 year, 2 months and 19 days minimum; 4 years maximum.

This man has a wife and two small children dependent upon him for support. While his entire record has not been of the best, it appears that since his former sentence — up to the time of the crime for which he is now in prison — he had led a good life. The judge and district attorney take the position that in view of the family conditions of this man, clemency might well be exercised. For the purpose of permitting him to assist his family, I have commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

April 2, 1920. John Bardacini. Convicted in Montgomery county of murder, second degree, and sentenced in February, 1915, to Clinton Prison for 20 years minimum; life maximum.

Commutated to 5 years, 1 month and 24 days minimum; life maximum.

This man has had an excellent prison record and his application for clemency is recommended by Judge Van Kirk, who presided at the trial, who advises me that in his opinion five years' punishment for the crime and the circumstances under which it was committed, is sufficient, and he recommends the prisoner's release. The assistant district attorney of Montgomery county, at the time of the prosecution of Bardacini, has also recommended that he believes the prisoner has been sufficiently punished.

In view of the recommendations in this case, I have commuted the sentence of this man so that he may be released under supervision subject to the jurisdiction of the Parole Board.

April 12, 1920. Albert Glanzrock. Convicted in Broome county of robbery, first degree, and sentenced in May, 1917, to Sing Sing Prison for a term of 8 years and 6 months. The sentence was to become operative after this man had served a term in the Elmira Reformatory for a crime for which he was convicted in Kings county. Glanzrock was received at prison June 21, 1918.

Commuted to 1 year and 10 months minimum; 8 years and 6 months maximum.

If nothing were done for this prisoner, his term would expire on October 25, 1923. He has a wife and two small children, of whom were here to see me, who are greatly in need of financial assistance, and for that reason alone I have commuted his sentence to time actually served so that he may be released under parole and be allowed to take care of his family. If he fails to behave himself, he can be taken back to prison immediately and be compelled to serve out the balance of his unexpired term. He will be under the supervision of the Parole Board for at least two years, and taking into consideration the facts of the case I have concluded that the State would gain nothing by keeping this man in prison for a longer time.

April 14, 1920. John Koski and Ladislaw Kushminski. Convicted in Queens county of burglary, first degree, and grand larceny, second degree, and sentenced by Judge Humphrey in March, 1915, to not less than 5 years nor more than 9 years and 6 months each.

After these men had served something over a year, it was determined that their sentences were illegal. They were returned to court and the sentences were corrected by Judge Humphrey, who imposed upon them a sentence of 10 years minimum; 15 years and 6 months maximum, in each case.

At the time of the resentence of these two men, the judge stated to them in open court that when the minimum of the original sentence had expired, if application were made for executive clemency, he would recommend that same be granted. Application for clemency was made in behalf of these two men, and the judge, acting upon the statement made by him in 1916 at the time of the resentence, is on record in a statement to the Governor, as follows:

"At the time of correcting the sentence, I told these men that when the minimum of the original sentence had expired, if an application were made for executive clemency, I would recommend that it be granted. That period is now approaching and I make such recommendation."

In view of the recommendation by Judge Humphrey, I have commuted the sentence of these two men to 5 years, 1 month and 10 days minimum; 15 years and 6 months maximum.

This commutation will permit these men to be released under and subject to the jurisdiction of the Parole Board.

April 22, 1920. Daniel W. Talcott. Convicted in Rensselaer county of grand larceny, first degree, and sentenced in December, 1918, to Clinton Prison, for a term of 2 years and 6 months minimum; 7 years and 8 months maximum.

Committed to 1 year, 4 months and 7 days minimum; 7 years and 8 months maximum.

Judge Howard, who presided at the trial, advises me that he believes that this is a case where executive clemency should be exercised; in fact, he states that at the time of the conviction, he thought that the matter should have been adjusted without the man going to prison.

Upon the recommendation of the judge, I have commuted Talcott's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

April 23, 1920. Bernard Redman. Convicted in Erie county of manslaughter in the first degree, and sentenced in June, 1911 to Auburn Prison for a term of 10 years minimum; 20 years maximum.

Committed to 8 years, 9 months and 23 days, actual time.

This man is now confined in the Dannemora State Hospital and I am advised by the Medical Superintendent of that hospital that Redman can as well be taken care of in a civil hospital as where he is at present. His minimum time has expired, and if he were absolutely sane he would have been released from prison under parole. It is thought that if transferred to the Buffalo State Hospital, where his relatives could visit him frequently, it would have a good effect on his mental condition, and taking into consideration all the facts and circumstances of this case I have commuted the sentence of Redman so that he can be transferred to the Buffalo State Hospital.

April 22, 1920. William L. Perry. Convicted in New York county of murder, second degree, and sentenced in June, 1906 to a term of 20 years minimum; life maximum.

Committed to 13 years, 9 months and 22 days minimum; life maximum.

Judge Rosalsky, who presided at the trial, advises me under date of March, 1920:

"In view of Perry's excellent record in prison and the time served, I believe that the ends of justice have been substantially fulfilled and I recommend a commutation of his sentence so that he may be released."

Acting upon the recommendation of the judge, and considering the facts and circumstances of Perry's case, I have granted a commutation of sentence so that this man may be released under parole and subject to the jurisdiction of the Parole Board.

April 27, 1920. Louis J. Simons. Convicted in Bronx county of forgery in the second degree, and sentenced in July, 1918, to Sing Sing Prison to a definite term of 6 years and 1 month.

Committed to 1 year, 9 months and 13 days minimum; 6 years and 1 month maximum.

Recommended by Judge Gibbs, who presided at the trial, who advises me that he feels that this man has been sufficiently punished and has no hesitation in recommending his release. The district attorney of the county wherein the crime was committed makes no objections. The people from whom the money was taken advise me that they will take this man back in their employ upon his release.

Acting upon the recommendations before me in this case, I have commuted this man's sentence so that he might be released under and subject to the jurisdiction of the Parole Board.

May 3, 1920. William Walters. Convicted in New York county of murder in the first degree, for the killing in that county on March 29, 1919, of one Leo Rubin, and sentenced to be electrocuted during the week beginning May 3, 1920.

Commutated to life imprisonment.

The commutation is granted upon the recommendation of Judge Rosalsky, who presided at the trial, and the recommendation of District Attorney Swann, who prosecuted the case, both of them stating that they earnestly recommend a commutation of the sentence to life imprisonment.

May 3, 1920. Oscar Frazier. Convicted in Dutchess county of the crime of murder, in the first degree, for the killing in that county on July 3, 1919, of one Joseph Green, and sentenced to be electrocuted during the week of May 3, 1920.

Commutated to life imprisonment.

I am granting this commutation upon the recommendation of Justice Morschauser of the Supreme Court who presided at the trial of Frazier, and who has recommended to me over his signature, under date of April 17, 1920, that he believes that a commutation to life imprisonment should be granted.

May 5, 1920. William Warmick. Convicted in Erie county in June, 1919, of the crime of murder, first degree. The crime consisted of the killing in the city of Buffalo of a man by the name of John William Thomas, who was a pullman car porter.

This case was appealed to the Court of Appeals and there affirmed.

Commutated to life imprisonment.

I am granting this commutation upon the recommendation to me of the judges of the Court of Appeals.

May 10, 1920. Floyd M. Knotts. Convicted in New York county of grand larceny, first degree, and sentenced to Sing Sing Prison on March 9, 1917, to serve a term of 5 years minimum; 6 years, 6 months maximum.

Committed to 3 years, 2 months and 13 days minimum; 6 years, 6 months maximum.

Recommended by Judge Nott, who presided at the trial, who states that he believes the ends of justice would be served if this man were released after serving three years. Knotts now has served over three years and I have accordingly commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

May 10, 1920. James Jones. Convicted in Suffolk county of murder, second degree, and sentenced in January, 1909, to Sing Sing Prison, to serve a term of 20 years, minimum; life, maximum.

Committed to 11 years, 3 months and 26 days minimum; life maximum.

Recommended by Judge Stapleton who presided at the trial, and by District Attorney Furman, who prosecuted the case.

Taking into consideration the lapse of time since these recommendations were made, in 1914, and the fact that this man has maintained an excellent prison record, I have commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

May 10, 1920. James Green, alias James Mulcahey. Convicted in New York county of manslaughter, first degree, and sentenced in October, 1912, to Sing Sing Prison, term of 9 years, 6 months minimum; 20 years maximum.

Committed to 7 years, 6 months and 23 days minimum; 20 years maximum.

This man's minimum time would expire October 30, 1920; I am, therefore, reducing his minimum term by four months.

The judge who presided at the trial makes a recommendation that he believes the ends of justice have been met and urges that clemency be granted. I am informed also by the officials at Sing Sing Prison where this man has been confined since 1912, that he has been faithful in the performance of his duties and a model prisoner, and is entitled for that reason to great consideration.

Taking into consideration all the facts surrounding this case, I have concluded that it is a proper one for the exercise of clemency and have therefore commuted this man's sentence so that he might be released under and subject to the jurisdiction of the Parole Board.

May 10, 1920. Irving Herman. Convicted in Kings county of assault in the second degree and sentenced in May, 1919, to Sing Sing Prison for 2 years minimum; 5 years maximum.

Committed to 1 year, 3 days minimum; 5 years maximum.

This man's minimum term would expire in November of this year; I am, therefore, reducing his sentence by about 5 months. He has been severely punished for the crime committed, and owing to his physical condition I have concluded that the ends of justice have been satisfied, and I have accordingly commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

May 15, 1920. Charles C. Clark. Convicted in New York county of robbery in the first degree, and sentenced by Judge Foster in April, 1913, to Sing Sing Prison for 10 years minimum; 20 years maximum.

Committed to 7 years, 1 month and 6 days minimum; 20 years maximum.

Three other men were convicted at the same time, all being implicated in this same crime, Patrick Bulger, George McVetty and Robert McVetty; all of these men have been released by having their sentence commuted to time served. It would not be fair to Clark to compel him to serve a longer time than the other three men, and for that reason I am granting a commutation of sentence in behalf of this prisoner, so that he may be released on parole.

May 15, 1920. Andre L. Stapler. Convicted in New York county of manslaughter in the first degree, and sentenced in June, 1918, to Sing Sing Prison for 5 years and 4 months minimum; 11 years, 6 months maximum.

Committed to 1 year, 10 months and 27 days minimum; 11 years, 6 months maximum.

Owing to the standing of this man in Chicago and in New York city where he was practicing his profession, prior to the time of his conviction, and after a most careful study of the facts

and circumstances surrounding the entire situation, I have reached the conclusion that the time served by Stapler has been severe punishment and that nothing could be accomplished by further confinement. I, therefore, have commuted this man's sentence so that he may be released on parole.

May 15, 1900. Raymond Callahan. Convicted in New York county of murder, in the second degree, and sentenced in June, 1917, to Sing Sing Prison for 20 years minimum; life maximum.

Commuted to 2 years, 8 months and 13 days minimum; life maximum.

The crime for which Callahan was convicted was committed in 1912 and the period between 1912 and 1917 was spent by him in the Matteawan State Hospital, after which he was returned to the court as sane, so that taking into consideration the time which he has served by being confined in the hospital, it would mean nearly eight years. Judge Nott who presided at the trial advised me that the evidence showed a lack of motive on the part of the defendant to commit homicide and that inasmuch as the act was committed either under the influence of insanity or intoxication the ends of justice would not suffer by a commutation of the man's sentence.

Taking into consideration the facts surrounding the case and as presented by Judge Nott, I have commuted this prisoner's sentence so that he may be released on parole.

May 15, 1920. Clarence La Rue. Convicted in Jefferson county in June, 1918, of burglary in the third degree, and sentenced to Clinton Prison for a definite term of 5 years and 6 months.

Commuted to 1 year, 11 months and 6 days minimum; 5 years and 6 months maximum.

Recommended by Judge Reeves who states that LaRue's sentence was much more severe than the crime warranted but being a second offender he had no alternative. The property taken was of small value. The recommendation of the judge is concurred in by the district attorney of Jefferson county. In view of such recommendations I have commuted this man's sentence so that he may be released on parole.

May 15, 1920. John Smith. Convicted in Kings county of

burglary in the first degree, and sentenced in June, 1906, to Sing Sing Prison for a definite term of 25 years.

Commuted to 13 years, 10 months and 26 days minimum; 25 years maximum.

Recommended by Judge Aspinall, who advises me that he believes that clemency may well be extended in this man's behalf. The prisoner is now 67 years of age and he has served nearly 14 years in prison. He has many people interested in him, who will take care of him after he is released, and taking into consideration all the facts of this case, I have commuted this man's sentence so that he may be released on parole.

May 17, 1920. Antonio Criminardi. Convicted in Chautauqua county of manslaughter in the first degree, and sentenced in July, 1913, to Auburn Prison for a term of 10 years minimum; 15 years maximum.

Commuted to 6 years, 10 months and 6 days minimum; 15 years maximum.

Recommended by assistant district attorney who prosecuted the case, who states that inasmuch as this man has served over six years, he feels that he has been sufficiently punished. I have accordingly commuted this man's sentence so that he may be released on parole.

May 17, 1920. John Harty. Convicted in Kings county of attempted grand larceny, first degree, as a second offense, and sentenced in November, 1918, to Sing Sing Prison to a definite term of 5 years, 4 months.

Commuted to 1 year, 6 months and 11 days minimum; 5 years, 4 months maximum.

This prisoner himself is not entitled to any consideration but he has a wife and three small children, five, three and one year old. They are in distress and dire need of his support; unable to get along except by aid of charity. For the purpose of relieving the family, I am commuting Harty's sentence so that he may be released under parole. Judge Dike in his report to me says:

"I have had several conversations with his wife who is in dire need of his help. That is the only reason why Executive clemency should be exercised."

If this man behaves himself, the State will be better off with him at liberty and looking after his family, than to keep him confined. If he does not behave himself he can be returned to prison and be compelled to serve out the balance of his unexpired term.

May 17, 1920. Julius Strumpf. Convicted in Onondaga county of forgery in the second degree, and sentenced in April, 1918, to Auburn Prison for a definite term of 6 years.

Commuted to 2 years, 1 month and 4 days minimum; 6 years maximum.

This case has received very careful consideration by Judge Cobb, who presided at the trial and he has advised me that he is satisfied that the forgeries committed were probably committed by the prisoner's wife. The district attorney who prosecuted the case has also advised me that he believes that Strumpf is entitled to clemency.

In view of the recommendations I have commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

May 17, 1920. Carl Gott. Convicted in Bronx county of manslaughter, first degree, and sentenced on February 5, 1917, to Sing Sing Prison for a term of 9 years minimum; 18 years and 2 months maximum.

Commuted to 3 years, 3 months and 17 days minimum; 18 years, 2 months maximum.

Judge Delehanty, who presided at the trial of Gott, informs me that he was of the opinion that had this man been capably defended he might have been acquitted on the ground of self-defense. The prisoner is suffering from pulmonary tuberculosis and both the judge and district attorney believe that owing to his physical condition the ends of justice will be fully satisfied by the time served in prison. I have therefore commuted this man's sentence so that he may be released on parole.

May 21, 1920. Joseph McCarthy. Convicted in Bronx county of murder in the first degree, in May, 1919, and sentenced to be electrocuted during the week beginning May 24, 1920.

Commuted to life imprisonment.

This commutation of sentence is granted upon the specific

recommendation of Judge McAvoy, who presided at the trial of McCarthy, and of the district attorney of the Bronx, who prosecuted the case.

June 3, 1920. Robert Harding. Convicted in New York county of robbery, first degree, second offense, and sentenced in 1907, to Sing Sing Prison for a term of 24 years.

Commuted to 12 years, 7 months and 4 days minimum; 24 years maximum.

This man has been severely punished and his term would end by expiration in January, 1922. I am therefore reducing his sentence by little over a year and 6 months. He has performed services for the State, for which the warden of the prison recommends that he receive and is entitled to consideration. Taking into account this fact and the circumstances of the whole case, I have commuted Harding's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

June 3, 1920. George Hoogbone. Convicted in Saratoga county of murder, second degree, and sentenced in April, 1910, to Clinton Prison, for a term of 20 years minimum; life maximum.

Commuted to 10 years, 2 months and 2 days minimum; life maximum.

Recommended by Judge Van Kirk, who presided at the trial of the prisoner, also by the district attorney who prosecuted the case.

In view of the recommendations in this case, I have commuted the sentence of Hoogbone so that he may be released under and subject to the jurisdiction of the Parole Board.

June 3, 1920. Walter Ziolski. Convicted in Niagara county of murder in the second degree, and sentenced in April, 1908, to Auburn Prison for a term of 20 years minimum; life maximum.

Commuted to 12 years, 2 months minimum; life maximum.

Recommended by the district attorney who prosecuted the case. This man has always maintained a perfect prison record, and in view of this fact and the recommendation, I have commuted his sentence so that he might be released under and subject to the jurisdiction of the Parole Board.

June 3, 1920. Pasquale Ippolito. Convicted in New York county of manslaughter in the first degree, and sentenced in October, 1914, to Sing Sing Prison, for a term of 8 years minimum; 16 years maximum.

Committed to 5 years, 7 months and 20 days minimum; 1 years maximum.

This man's minimum term would expire under the law in March, 1921. The judge who presided at the trial advises me that in view of the good conduct of the prisoner and the time served, he believes the ends of justice have been met and he recommends his release. I have therefore commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

June 3, 1920. Jacavina Puglieso. Convicted in Westchester county of robbery, second degree, and sentenced in June, 1915 to Sing Sing Prison for a term of 9 years, 6 months minimum; 15 years, 6 months maximum.

Committed to 7 years, 5 months and 5 days minimum; 1 years, 6 months maximum.

Recommended by the district attorney of Westchester county who at the time of the trial, was the assistant district attorney,—on the ground that in his judgment the prisoner has been sufficiently punished; also recommended by Judge Pratt, who presided at the trial. I have therefore commuted the sentence of this prisoner so that he might be released under and subject to the jurisdiction of the Parole Board.

June 3, 1920. Frank Klanis. Convicted in Wayne county of murder in the second degree, and sentenced in September, 1906 to Auburn Prison for 20 years minimum; life maximum.

Committed to 13 years, 9 months and 6 days minimum; life maximum.

This man has been severely punished and both the judge and district attorney recommend his release. He has many influential people, who are willing to look after him on his release, and I have in consideration of these facts, commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

June 3, 1920. Grover Cleveland Poole. Convicted in Nassau county of murder in the first degree, and sentenced in June, 1906,

to Sing Sing Prison for a term of 20 years minimum; life maximum.

Commuted to 14 years minimum; life maximum.

There has always been a question in this case as to whether Poole actually committed the crime, or whether he was shielding someone else connected with it.

The district attorney who prosecuted the case advises me that taking into consideration the length of time that Poole has served, he believes justice has been met, and that nothing further could be gained by reason of longer detention of the prisoner.

In view of the facts and the recommendation in the case, I have commuted the sentence so that Poole may be released under and subject to the jurisdiction of the Parole Board.

June 4, 1920. Alfred P. Frankel. Convicted in New York county of grand larceny, second degree, and burglary, third degree, and sentenced in March, 1918, to Sing Sing Prison for two definite terms of 5 years each,— to run concurrently.

Commuted to 2 years, 3 months and 9 days minimum; 5 years maximum.

This man would be eligible to be released in July, 1921, and I am therefore reducing his sentence by about eleven months.

He is suffering from tuberculosis and his relatives desire to take him to another climate for the purpose of seeking a cure. I have given the case careful consideration and have concluded to commute his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

June 4, 1920. John Slowenski. Convicted in Erie county of carrying concealed weapons and sentenced in September, 1917, to Auburn Prison for a term of 5 years and 3 months.

Commuted to 2 years, 9 months minimum; 5 years, 3 months maximum.

This man's term would end by expiration in March, 1921. I am therefore reducing his sentence by a little over 8 months.

Recommended by Judge Laing, who presided at the trial, and that recommendation is concurred in by the district attorney. In view of the recommendations I have commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

June 4, 1920. John Mohre. Convicted in Queens county of feloniously carrying concealed weapons, and sentenced in March 1915, to Sing Sing Prison for a definite term of 13 years.

Commutated to 2 years, 1 month and 13 days, actual time.

This commutation permits of immediate release of the prisoner. Commutation granted on the express recommendation of the prison physician, that this man's condition was such that in his judgment it would be impossible for the man to live beyond a period of three or four months.

June 4, 1920. Herman Gross. Convicted in New York county in March, 1919, of burglary, third degree, and sentenced to Sing Sing Prison for a definite term of 5 years.

Commutated to 1 year, 2 months and 18 days minimum; 5 years maximum.

Granted upon the express recommendation of Judge Rosalsky. Released under and subject to the jurisdiction of the Parole Board.

June 4, 1920. Paul Vogel. Convicted in Erie county of criminally receiving stolen property, first degree, and grand larceny, first degree, and sentenced in November, 1917, to Auburn Prison for a term of 4 years minimum; 8 years, 7 months maximum.

Commutated to 2 years, 7 months minimum; 8 years, 7 months maximum.

This man's minimum time would expire in November, 1920. I am therefore reducing his sentence by about five months.

Clemency is recommended by District Attorney Moore, who prosecuted the case, and that recommendation is concurred in by Judge Laing, who presided at the time of the conviction. Taking into consideration the recommendations I have commuted the sentence of this man so that he may be released under and subject to the jurisdiction of the Parole Board.

June 3, 1920. Joseph Schmulowitz. Convicted in Kings county of murder in the second degree, and sentenced in 1908, to Sing Sing Prison for a term of 20 years minimum; life maximum.

Commutated to 12 years, 4 months and 17 days minimum; life maximum.

Recommended by the assistant district attorney who prosecuted the case and who advises the Governor that in his judgment this man has been sufficiently punished, and that he believes the ends of justice will be met by his release.

This man has a family dependent upon him for support, and in view of the time served, and the recommendation in the case as well, I have commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

June 3, 1920. Perry Johnson. Convicted in Tioga county of robbery, first degree, and sentenced in November, 1910, to Auburn Prison, for a definite term of 19 years.

Committed to 9 years, 8 months minimum; 19 years maximum.

This man's minimum sentence would expire by commutation under the law, in March, 1922. I have therefore reduced the sentence by about a year and 9 months.

Recommended by the district attorney who prosecuted the case, who believes that the time served by the prisoner is sufficient punishment. Taking into consideration all the facts and circumstances of the case, I have commuted the sentence so that the prisoner may be released under and subject to the jurisdiction of the Parole Board.

June 23, 1920. James Tobin. Convicted in New York county of robbery, second degree, and sentenced in May, 1919, to Sing Sing Prison for a term of 5 years minimum; 10 years maximum.

Committed to 1 year and 25 days, actual time served.

Lieutenant Governor and Acting Governor Walker today commuted the sentence of James Tobin solely on the ground that Tobin is suffering from an incurable disease of the brain, diagnosed probably as cancer or tumor, and the prison physician advises the Governor that the prisoner will not recover from it. So as to permit him to be taken care of on the outside, the Governor commuted the sentence of this man to time actually served by him.

June 30, 1920. Mahmut Blaza. Blaza was indicted for murder in the first degree in New York county for the killing in that county in 1919 of one Dervish Muhareni, and was convicted in October, 1919, of murder in the first degree, and sentenced to be electrocuted.

Thereafter the case was appealed to the Court of Appeals and the verdict of the trial court was affirmed. The Court of Appeals fixed the time during which Blaza should be electrocuted, of the week beginning July 19, 1920.

Judge Thomas C. T. Crain, who presided at the trial of this man, under date of June 23rd, advises me as follows:

"The facts are that the prisoner in conjunction with one Ralph Mosho, went to the room occupied by the deceased for the purpose of robbing him of a sum of money which he had on his person. The prisoner held the deceased and participated with Ralph Mosho in robbing the deceased. The deceased was stabbed to death by the prisoner's confederate, Ralph Mosho. The prisoner did not take part in the actual killing of the deceased and in fact advised his confederate not to kill the deceased. The prisoner was tried before me and convicted by the jury of murder in the first degree and has been sentenced to death. His conviction has been upheld by the Court of Appeals. The prisoner's confederate was also indicted for murder in the first degree for killing the deceased. He was tried before Judge Mulqueen of this Court in November, 1919. The jury brought in a verdict against Ralph Mosho, finding him guilty of manslaughter in the second degree. He was sentenced to the State prison for from seven years and six months to fourteen years and six months.

"We have therefore the situation that the person who did the actual killing has been found guilty of manslaughter in the second degree, whereas, the one who participated in the robbery has been convicted of murder in the first degree.

"Under these circumstances, I am of the opinion that the application of the prisoner for Executive clemency should be granted and that his sentence should be commuted to imprisonment."

In view of the judge's recommendation I have accordingly commuted this man's sentence to life imprisonment.

July 3, 1920. Louis Gross. Convicted in New York county of grand larceny, first degree, and sentenced in June, 1918, to Sing Sing Prison, for a definite term of 3 years and 6 months.

Commuted to 2 years and 4 days, actual time.

It appears that Gross while at work at Wingdale Prison broke his arm; he was thereafter transferred to Sing Sing Prison and shortly afterward broke the same arm the second time. From the statements of the prison physician it will be necessary for Gross to have an operation so as to have the bones of his arm joined together by a wire. Such an operation is a serious one and, in the judgment of the prison physician and officials there, it can better be performed on the outside instead of at the prison.

This man's time will expire in November of this year. The judge who sentenced him, some time ago advised the Governor that he thought Gross should serve a substantial portion of his sentence before being released. Gross has now served such substantial portion, and in view of the facts as set forth in this statement, I have commuted this man's sentence.

July 21, 1920. Harold V. Lamble. Convicted in New York county of grand larceny, first degree, as first offense, and sentenced January 12, 1920, for a definite term of nine years and four months.

Commuted to 6 months and 8 days, actual time served.

July 21, 1920. Charles Perchand. Convicted in New York county of feloniously having and carrying fire arm after a conviction of crime, and sentenced January 23, 1919, to a definite term of 6 years and 8 months.

Commuted to 1 year, 5 months and 28 days, actual time served.

These men have been indicted in Union county, N. J., for murder. Pursuant to the request of the prosecutor of the pleas of Union county, N. J., the Governor of that State has made requisition for the return of the prisoners as fugitives from justice, and it being represented to me by the authorities of Union county that a trial would probably result in a conviction, I have commuted their sentences to actual time served and have ordered that they be surrendered to the New Jersey authorities.

July 21, 1920. Manford Stewart. Convicted in Onondaga county of grand larceny, second degree, and sentenced December 2, 1919, to 1 year and 6 months minimum; 2 years maximum, imprisonment in Auburn Prison.

Commutated to 7 months and 25 days minimum; 2 years maximum, without compensation, from December 4, 1919. This commutation is granted upon the recommendation of the judge who tried the case, and the district attorney who was the prosecutor. Stewart will be under the jurisdiction of the Parole Board, and if he commits another felony will be compelled to serve the balance of this term.

July 22, 1920. Benjamin Fleischer. Convicted in Queens county of arson, second degree, and sentenced March 31, 1919, to 10 years minimum, 20 years maximum, imprisonment in Sing Sing Prison.

Commutated to 1 year, 3 months and 23 days minimum; 20 years maximum without compensation, from April 4, 1919. This commutation is granted upon the recommendation of the judge who tried the case and the district attorney who prosecuted it.

July 22, 1920. Arthur Moore. Convicted in Saratoga county of robbery in the first degree, and sentenced in March, 1913, to Clinton Prison for a term of 10 years minimum; 19 years, 6 months maximum.

Commutated to 7 years, 4 months and 6 days minimum; 19 years, 6 months maximum.

Recommended by Judge Salisbury who presided at the trial, and by the district attorney who prosecuted the case. I have accordingly commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

July 22, 1920. Matthew Amato. Convicted in New York county of manslaughter in the first degree, and sentenced in February, 1915, to Sing Sing Prison, for 10 years minimum; 19 years, 6 months maximum.

Commutated to 5 years, 4 months and 15 days minimum; 19 years, 6 months maximum.

This man has a mother who is very aged and who is dependent upon him for support. Taking into consideration this fact and the further fact that he has undergone severe punishment by his imprisonment, I have commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

July 22, 1920. Umberto Maione. Convicted in Kings county of robbery, first degree, grand larceny, first degree, and assault in the second degree; and sentenced in June, 1915, to Sing Sing Prison for a term of 10 years minimum; 16 years maximum.

Commuted to 5 years, 1 month minimum; 16 years maximum.

Recommended by Judge Manning before whom Maione was convicted, and by District Attorney Lewis, who prosecuted the case. I have accordingly commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

July 31, 1920. Robert Sherlock. Convicted in New York county of assault in the second degree, and sentenced June 20, 1919, to Sing Sing Prison for a term of 3 years, 8 months.

This man's sentence is commuted upon the express recommendation of the judge before whom he was sentenced and the district attorney who prosecuted him, and for the further reason that the report of the State Commission for the Blind is to the effect that he is gradually growing blind and is in a serious condition. I doubt if the proper treatment can be given to him at Sing Sing Prison, and I am strongly of the opinion that he should be returned to his family, in order that they may take what measures they can to preserve his eyesight.

August 7, 1920. John J. Rodgers. Convicted in New York county of robbery, first degree, at second offense and sentenced February 15, 1918, to Sing Sing Prison for a term of 11 years.

Commuted to 2 years, 7 months and 2 days, minimum; 14 years maximum.

This sentence is commuted upon the express recommendation of the judge before whom he was tried and the district attorney who prosecuted him. He is commuted to an indeterminate sentence so that he will be paroled in September and be under the jurisdiction of the Parole Board.

August 7, 1920. Angelo Ballichino and Michael Locognata. Convicted in Erie county of assault, third degree and sentenced May 14, 1920, to 6 months imprisonment in the Erie County Penitentiary.

These sentences are commuted upon the recommendation of the judge who tried the cases and the district attorney who prosecuted.

August 21, 1920. John W. McCafferty. Convicted in Monroe county of grand larceny in the first degree, and sentenced in February, 1919, to a term of 3 years and 8 months in Auburn Prison.

Commuted to 1 year, 7 months minimum; 3 years and 8 months maximum.

Recommended by Judge Gillette, who imposed the sentence, who advises me that owing to the condition of the prisoner's mother's health, he believes this is a proper case for the exercise of executive clemency. Acting upon the judge's recommendation and for the purpose of assisting the prisoner's family, I have commuted his sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

August 21, 1920. Jacob Smith. Convicted in Cayuga county of arson in the third degree, and sentenced to Auburn Prison June 16, 1919, for a term of 5 years minimum; 10 years maximum.

Commuted to 1 year, 3 months and 3 days minimum; 10 years maximum.

This man's conduct in prison has been good since his incarceration. He is suffering from chronic diabetes and the warden of the prison recommends his parole. In addition to the warden's recommendation, Judge Rich of the Appellate Division, residing in Auburn and well acquainted with the facts, recommends to the Governor clemency in the prisoner's behalf. From the record it appears that Judge Rich was one of the men who would have suffered the greatest loss in this case, and, taking into consideration the prisoner's physical condition as well as the recommendations made to the Governor, I have commuted his sentence so that this man may be released under and subject to the jurisdiction of the Parole Board.

August 24, 1920. Paul Favreau. Convicted in Monroe county of abandonment and sentenced to the Monroe County Penitentiary in April, 1920, for a definite term of one year.

Commuted to 4 months and 15 days — actual time served.

This will permit Favreau to be released on August 25, 1920.

Granted on the specific recommendation of Judge Gillette, who imposed the sentence. The judge writes me that he believes if

this man's sentence is commuted, it will be the means of keeping his family together, and in view of the recommendation by the judge, I have commuted Favreau's sentence.

September 7, 1920. Fred DeBarberi. Convicted in Westchester county of burglary in the first degree, and sentenced January 28, 1909, to Sing Sing Prison for a term of 12 years and 6 months minimum; 17 years and 6 months maximum.

Commuted to 11 years, 7 months and 22 days minimum; 17 years and 6 months maximum.

Recommended by Judge Platt, who imposed the sentence, and by District Attorney Davis, who was assistant district attorney at the time this man was convicted. This man has been severely punished by the time served and, taking into consideration this fact, together with the recommendations of the judge and district attorney, I have accordingly commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

September 7, 1920. James Lee. Convicted in Nassau county of robbery in the first degree (four charges); grand larceny, second degree, and assault in the second degree, and sentenced to Sing Sing Prison in January, 1914, for a definite term of 20 years.

Commuted to 6 years, 7 months and 17 days minimum; 20 years maximum.

Recommended by Judge Niemann, who imposed the sentence, and by district attorney of Nassau county. The judge states in a communication to me in May of this year that he believes that under the circumstances Lee is entitled to clemency.

Taking into consideration the time which the prisoner has served and the recommendation of both the judge and district attorney, I have accordingly commuted the sentence of Lee so that he may be released under and subject to the jurisdiction of the Parole Board.

September 7, 1920. Patrick Fitzgerald. Convicted in Bronx county of assault in the second degree, and sentenced in April, 1919, to Sing Sing Prison for a term of 2 years and 6 months minimum; 5 years maximum.

Commuted to 1 year, 5 months and 6 days minimum; 5 years maximum.

This man's minimum term would expire in March, 1921, and I am, therefore, reducing the sentence by little over six months.

This man is suffering from heart disease and since his incarceration has been admitted to the hospital five different times; I am also advised by the prison physician that he will never be well, although he may live for a long time.

Judge Gibbs, who presided at the trial, and District Attorney Martin, who prosecuted the case, advise me that in view of the physical condition of this prisoner, they believe he has been sufficiently punished.

Taking into consideration all the facts of the case as presented to me, I have concluded it is a proper one for the exercise of clemency, and have accordingly commuted the sentence of this man so that he may be released under and subject to the jurisdiction of the Parole Board.

September 7, 1920. Bennie Rosner. Convicted in New York county of burglary in the third degree, and sentenced in March, 1918, to Sing Sing Prison for a definite term of 5 years.

Commuted to 2 years, 6 months and 9 days minimum; 5 years maximum.

I am reducing this man's sentence by about nine months, as his term would end and he would receive an absolute discharge in July, 1921.

On June fourth of this year I commuted the sentence of one Alfred Frankel, a codefendant in this crime with Rosner. In view of that commutation and the fact that the judge believes that Rosner should receive the same consideration that Frankel did, I have commuted the sentence of Rosner so that he may be released under and subject to the jurisdiction of the Parole Board.

September 7, 1920. Fred Hull. Convicted in Bronx county of robbery, first degree, and sentenced in December, 1916, to Sing Sing Prison for 10 years minimum; 19 years and 8 months maximum.

Commuted to 3 years, 8 months and 27 days minimum; 19 years and 8 months maximum.

Granted upon the recommendation of Judge Gibbs, who imposed the sentence, and who advises me in February of this year as follows:

"Hull has written me a number of letters which indicate a repentant attitude, and since the defendant has served a substantial portion of his sentence, I think that his sentence might be commuted after he has served half of his minimum time."

Hull will have served half of his minimum sentence this month. Taking into consideration the recommendation of the judge, I have accordingly commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

September 7, 1920. Frank Kusan. Convicted in Erie county of murder, second degree, and sentenced in February, 1909, to Auburn Prison for a term of 20 years minimum; life maximum.

Committed to 11 years, 7 months and 15 days minimum; life maximum.

Recommended by Judge Brown, who presided at the trial, and by district attorney of Erie county, where the crime was committed. It appears from Judge Brown's letter, and as borne out by the report of the prison authorities, that this man has never been punished during his incarceration in prison. He has a son now fourteen years old, who is very much in need of his father's assistance. Kusan had never been in trouble before this crime was committed.

Taking into consideration all the facts of this case and the recommendations of the judge and district attorney, I have commuted the sentence of the prisoner so that he may be released under and subject to the jurisdiction of the Parole Board.

September 7, 1920. George Seymour. Convicted in New York county of assault in the first degree, and sentenced in 1917 to Sing Sing Prison for a term of 5 years minimum; 10 years maximum.

Committed to 3 years, 4 months and 6 days minimum; 10 years maximum.

This man's minimum term would expire in February, 1921, and I am, therefore, reducing his sentence by a little less than five months.

Recommended by Judge McIntyre, who makes an urgent recommendation that the prisoner be released. I have, therefore,

commuted the sentence of this man so that he may be released under and subject to the jurisdiction of the Parole Board.

September 8, 1920. Angelo Milone. Convicted in New York county of assault in the first degree, second offense, and sentenced to Sing Sing Prison for 4 years and 10 months minimum 9 years and 8 months maximum.

Commutated to 2 years, 6 months and 23 days minimum 3 years and 8 months maximum.

Granted upon the recommendation of Judge Crain, who presided at the trial, and who advises me:

"I believe that if the defendant serves two years and six months, if his conduct in prison warrants clemency, it will not be inconsistent with the interests of justice to release him on parole after such service."

The prisoner's conduct in prison has been good, and in view of the judge's recommendation I have commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

September 10, 1920. George E. Coberg. Convicted in New York county in August, 1919, of the crime of bigamy, and sentenced to Sing Sing Prison in August of the same year to a term of 2 years minimum; 4 years maximum.

Commutated to 1 year, 15 days minimum, 4 years maximum.

I am reducing this man's sentence by little over five months.

It appears from the record that in 1917 this man enlisted in the United States naval service and was discharged from such service on May 8, 1918, the discharge certifying that it was the result of any misconduct on the part of petitioner. The record further shows that he thereafter enlisted in the United States army as a private, and from that service was honorably discharged on March 20, 1919.

His conduct in prison has been good and he has been properly severely punished for the crime committed.

Taking into consideration all of the facts of the case, I have reached the conclusion that the State would be as well off if this man were placed on parole, as it would be by compelling him to serve out the balance of his minimum time, I have accordingly commuted his sentence.

If Coberg does not behave himself while on parole, he can be returned to prison and be compelled to serve out the balance of his maximum sentence.

September 7, 1920. Joseph McCarthy. Convicted in Queens county of manslaughter in the first degree, and sentenced in March, 1915, to Sing Sing Prison for a term of 7 years and 6 months minimum; 15 years and 3 months maximum.

Commuted to 5 years, 6 months and 19 days minimum; 15 years and 6 months maximum.

This man's minimum term would expire on February 1, 1921, and I am, therefore, reducing his minimum term by a little over four months.

Recommended by Judge Van Sicten, who presided at the trial, and the district attorney of Queens county. This prisoner is suffering from tuberculosis, and taking this fact into consideration, also the recommendation of the judge, I have commuted the sentence of this man so that he may be released under and subject to the jurisdiction of the Parole Board.

September 23, 1920. William Osterhout. Convicted in Herkimer county of grand larceny in the first degree, and sentenced in July, 1920, to the Herkimer County Jail for a term of 1 year.

Commuted to 2 months and 3 days — actual time served.

Granted upon the recommendation of the judge, the district attorney and the sheriff of the county where the crime was committed, who state that this man has rendered valuable assistance in locating the others connected with the crime.

September 27, 1920. Isidore Berman. Convicted in New York county in December, 1919, to Sing Sing Prison for the crimes of attempted grand larceny, second degree, and grand larceny, second degree, and sentenced to serve two terms; one of 1 year and 3 months minimum; 2 years and 6 months maximum, and the second of 5 years straight.

Commuted to 9 months and 10 days — actual time served.

I am advised by the prison authorities and especially the prison physician, that this man has been suffering from heart disease ever since his incarceration; the disease being termed by the doctor a malignant endo-carditis, and which, I am advised, is generally fatal. The physician advises me under date of

September 14, 1920, that this man may live a month or two, but that he would not be surprised if he should pass away in a very short time. The Warden of the prison also recommends Berman's release on account of his physical condition.

For the purpose of permitting Berman to go home and be with his mother, I am commuting his sentence.

September 29, 1920. Arthur Miller. Convicted in New York county of criminally receiving stolen property, first degree, and sentenced to Sing Sing Prison in February, 1920, for a term of 1 year and 6 months minimum; 3 years maximum.

Commuted to 7 months and 25 days minimum; 3 years maximum.

This man's minimum term would expire February 19, 1921, and I am, therefore, reducing his term by about four months. This commutation will not allow him to be released until the latter part of October, when the Parole Board meets.

Recommended by the district attorney who prosecuted the case, as follows:

"He has been of help to the district attorney's office before and after his conviction, and has now been in prison for about six months. He left behind him a wife and two children of very tender age, one about two years old and the other about a year old. It was his first conviction and is a case that may appeal to your good judgment, as one where commutation would be deserving."

That this man has a wife and two small children who are in need of his help, has been well established, and I can see no good reason for making them suffer for a period of four more months, when this man can be released now to take care of his family. If he fails to behave himself, he can immediately be returned to prison.

After a careful consideration of the facts of the case, and the recommendation of the district attorney, I have commuted Miller's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

November 8, 1920. Adolph Leichen. Convicted in New York county of arson, second degree, and sentenced in March, 1916,

to Sing Sing Prison for a term of 12 years minimum; 15 years and 6 months maximum.

Commuted to 4 years, 7 months and 22 days minimum; 15 years and 6 months maximum.

I am advised by the Warden that this man has been employed as a trusty in the hospital in the prison and has rendered valuable services there, and that on account of such services he is entitled to great consideration. His release is also recommended by Judge Delehanty, who presided at the trial.

Taking into consideration the recommendation of the judge and the prison officials, I have accordingly commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

November 9, 1920. Roy Wengert. Convicted in New York county of grand larceny, second degree, and sentenced to Sing Sing Prison in April, 1918, for a definite term of 5 years.

Commuted to 2 years, 6 months and 18 days — actual time served.

I am reliably informed by the prison physician at Clinton Prison, that this man is in the last stages of pulmonary tuberculosis. His parents are anxious to take him with them to Harrisburgh, Pa., so that he might be with them during his severe illness. I have accordingly commuted his sentence.

November 8, 1920. Tony Marino. Convicted in New York county of manslaughter in the first degree, and sentenced in December, 1914, to Sing Sing Prison for a term of 6 years minimum; 12 years and 6 months maximum.

Commuted to 3 years, 11 months and 12 days minimum; 12 years and 6 months maximum.

This man's minimum time would expire June 13, 1921. The judge before whom this man was tried has recommended to me that Marino be allowed the time he spent in the Toombs awaiting his trial. I have accordingly reduced Marino's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

November 23, 1920. Barney King. King was convicted in Richmond county of assault in the second degree, and sentenced in March, 1920, to Sing Sing Prison for 2 years and 6 months minimum; 4 years and 6 months maximum.

Commutated to 6 months and 5 days minimum; 4 years and 6 months maximum.

Granted for the reason that the judge who presided at the trial of King and his two codefendants, advises me as follows:

"I must honestly confess that I am of the opinion that had King demanded a separate trial, and the same evidence was produced in his behalf as that which I heard in the trial of all three, I am inclined to think that he would have been acquitted."

In view of the statement of the judge in this matter, I am commuting this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

November 26, 1920. Gregorio Gallo. Convicted in Queens county of rape in the second degree, and sentenced in December, 1917, to Sing Sing Prison for a term of 5 years minimum; 7 years and 6 months maximum.

Commutated to 2 years, 10 months and 13 days minimum; 7 years and 6 months maximum.

Granted upon the express recommendation of Judge Humphrey, who presided at the trial, and the district attorney, who prosecuted him. Judge Humphrey advises me that at this time he feels that clemency in this case may properly be exercised. I have accordingly commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

November 26, 1920. William Signor. Convicted in Albany county of murder in the second degree, and sentenced in December, 1912, to Clinton Prison for 20 years minimum; life maximum.

Commutated to 8 years minimum; life maximum.

Granted not only upon the recommendation of the judge and the district attorney, but also upon the recommendation of the former Warden of the prison, who advises me as follows:

"Ever since coming to prison, Signor has been one of the most valuable men in the institution. He has been assigned to positions of trust and has filled them to the satisfaction of those in authority. Because of his good services he certainly is worthy of consideration."

I have commuted the sentence so that Signor may be released under and subject to the jurisdiction of the Parole Board.

November 26, 1920. Herbert R. Minte. Convicted in New York county of attempted grand larceny, second degree, and sentenced in April, 1920, to Sing Sing Prison for a term of 1 year and 3 months minimum; 2 years and 6 months maximum.

Commutated to 8 months and 5 days minimum; 2 years and 6 months maximum.

Minte had always borne a good reputation prior to this conviction; never had been in trouble before. On his trial he pleaded guilty and rendered valuable services to the State in disclosing the transactions. The judge who presided at the trial advises me as follows:

"In view of the assistance rendered to the State by Minte, his age, etc., I believe it a proper case for the exercise of clemency."

Taking into consideration all the facts of this case and the statement of the judge, I have commuted this prisoner's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

November 26, 1920. John J. Wright. Convicted in Oneida county of violation of section 2460 of the Penal Law, and sentenced in March, 1918, to Auburn Prison for a term of 7 years and 9 months minimum; 10 years and 6 months maximum.

Commutated to 2 years, 8 months and 24 days minimum; 10 years and 6 months maximum.

Granted upon the express recommendation of the judge and district attorney, who advise me as follows:

"Under all the circumstances involved, we feel that the ends of justice will have been met and an act of charity been performed if Wright shall receive his parole."

Taking into consideration the facts of this case and the positive recommendation above referred to, I am commuting this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

November 26, 1920. Edward Warner. Convicted in Ontario county of receiving stolen property, and sentenced in November,

1919, to Auburn Prison for 2 years minimum; 4 years and 6 months maximum.

Commuted to 1 year, 17 days minimum; 4 years and 6 months maximum.

After a careful examination of the facts in this case, I find that the sentence received for the crime committed was too severe and I have reduced it so that he may be released under supervision, subject to the jurisdiction of the Parole Board.

November 26, 1920. Robert Cochrane. Convicted in Westchester county of robbery in the first degree, and sentenced in February, 1919, to Sing Sing Prison for 2 years and 6 months minimum; 4 years and 6 months maximum.

Commuted to 1 year, 9 months and 15 days minimum; 4 years and 6 months maximum.

This man's sentence would expire on the seventeenth of January next. I am commuting it to the time served in order that he may be home with his mother for Christmas. This action was taken first because of his good prison record while incarcerated, and, second, because of the recommendation of Judge Maloney of the Court of General Sessions, who presided at this trial.

December 6, 1920. David Akin. Convicted in Westchester county of rape in the second degree, and sentenced in March, 1918, to Auburn Prison for a term of 4 years minimum; 8 years and 6 months maximum.

Commuted to 2 years, 9 months and 4 days minimum; 8 years and 6 months maximum.

Granted upon the express recommendation of the judge who presided at the trial, who believes that he should be credited with the time which he served in jail prior to his conviction, which was a period of over nine months. Had he been allowed that time his sentence would have terminated some time ago.

December 6, 1920. John Cooke. Convicted in New York county of grand larceny, first degree, and sentenced in August, 1918, to Sing Sing Prison for a term of 5 years to 10 years.

Commuted to 2 years, 7 months and 14 days minimum; 5 years maximum.

Granted upon the favorable recommendation of Judge Cooke who presided at the trial. The judge informs me that the fa

of this prisoner has come to him with a very strong appeal, and he has been presented facts which constrain him to recommend clemency.

In view of the recommendation of the judge, I have commuted the sentence of this man so that he may be released under and subject to the jurisdiction of the Parole Board.

December 6, 1920. Salvatore Trifo. Convicted in Ontario county of robbery, first degree, and sentenced in November, 1918, to a minimum of 4 years and 6 months; 8 years and 7 months maximum.

Commuted to 2 years and 1 month minimum; 8 years and 7 months maximum.

Granted upon the recommendation of Judge Baker, who presided at the trial, who advises me that with a good prison record, clemency should be extended after this prisoner had served two years.

December 6, 1920. Vincenzo Granetelli. Convicted in Ontario county of robbery, first degree, and sentenced to serve a term of 5 years and 6 months minimum; 10 years and 8 months maximum.

Commuted to 2 years, 1 month minimum; 10 years, 8 months maximum.

Granted upon the recommendation of Judge Baker, who presided at the trial, who advises me that he believes with a good prison record after serving two years, that clemency should be extended.

December 6, 1920. Frank B. Chambers. Convicted in New York county of attempted robbery in the first degree, and sentenced in April, 1919, to Sing Sing Prison for a term of 3 years and 6 months minimum; 7 years and 6 months maximum.

Commuted to 1 year, 7 months and 20 days minimum; 7 years and 6 months maximum.

Granted upon the express recommendation by the judge who presided at the trial, who states that he believes the prisoner has been amply punished for the crime committed.

December 6, 1920. Ernesto Leporino. Convicted in New York county of robbery, first degree, second offense, and sentenced in 1914 to Sing Sing Prison for a definite term of 20 years.

Commuted to 5 years, 11 months and 21 days minimum; 5 years maximum.

Granted upon the express recommendation of Judge M. J. Queen, who states that the prisoner has many friends who are anxious to help him; also, that his wife has had a hard struggle to maintain the family, and the defendant expresses a firm determination to live an honest life in the future; that the ends of justice in his opinion will be served if the sentence of the prisoner is commuted at this time.

The Warden of the prison where Leporino is confined also recommends consideration.

Acting upon the recommendation by the judge, I have commuted the sentence of this man so that he may be released upon parole and subject to the jurisdiction of the Parole Board.

December 6, 1920. John Neil. Convicted in New York county of grand larceny in the second degree, and sentenced in January, 1920, to Sing Sing Prison for 2 years and 6 months minimum; 4 years and 6 months maximum.

Commuted to 11 months and 4 days minimum; 4 years and 6 months maximum.

Granted upon the recommendation of District Attorney Swanwick who advises me that owing to the previous good reputation of the prisoner and his extreme youth, he believes that the time already served is sufficient for the crime committed.

December 6, 1920. Anthony Alloy. Convicted in Queens county of arson in the second degree, and sentenced in April, 1913, to Sing Sing Prison for a definite term of 10 years.

Commuted to 7 years, 1 month and 8 days minimum; 10 years maximum.

Granted upon the recommendation of Judge Humphrey, who states that "In view of the prisoner's good record in prison, and the fact that he has less than a year to serve, his release at this time will be an inspiration to make good on his parole."

December 7, 1920. Dominic Gerdevine. Convicted in Orange county of murder in the second degree, and sentenced in March, 1914, to Auburn Prison for a term of 20 years minimum; 30 years maximum.

Commuted to 6 years, 6 months and 20 days minimum; 10 years maximum.

This man was originally convicted in 1913 of murder in the first degree. The court granted him a new trial and on his second trial he was convicted of murder in the second degree and sentenced to serve 20 years to life. Taking into consideration the time he has been in prison — about eight years — and the recommendation in his behalf by Judge Mills, who presided at the trial, and by the district attorney of Orange county, I have commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

December 7, 1920. Arthur Avery. Convicted in Albany county of grand larceny, second degree, and sentenced in December, 1919, to Clinton Prison for a term of 2 years and 6 months minimum; 5 years maximum.

Commutated to 11 months and 16 days minimum; 5 years maximum.

Granted upon the recommendation of Judge Addington, who states that he believes this sentence should be commuted to time already served by Avery.

December 7, 1920. Frank A. Harlander. Convicted in Erie county of manslaughter, first degree, and sentenced in December, 1916, to Auburn Prison for 7 years minimum; 19 years and 5 month maximum.

Commutated to 4 years and 4 days minimum; 10 years and 5 months maximum.

This man has been severely punished by the time already served and he has dependent upon him parents of 69 and 70 years of age. The judge who imposed the sentence states that there are many extenuating circumstances in the case and much in the prisoner's favor; that if clemency is granted, he believes the ends of justice will be served, taking into consideration the time already served by the prisoner.

In view of the recommendation made and the facts surrounding this case, I have commuted the sentence so that this man may be released under and subject to the Parole Board.

December 8, 1920. Henry Bray. Convicted in Oneida county of robbery, first degree, and sentenced in November, 1917, to Auburn Prison for a term of 5 years minimum; 7 years and 6 months maximum.

Commuted to 3 years and 19 days minimum; 7 years and 6 months maximum.

I am reducing this man's sentence by a little over eight months, as his term, if kept in prison to serve out the minimum, would expire in August, 1921.

December 8, 1920. Tony Lochacki. Convicted in Niagara county of manslaughter, first degree, and sentenced in December, 1917, to Auburn Prison for 6 years and 3 months minimum; 12 years and 6 months maximum.

Commuted to 3 years minimum; 12 years and 6 months maximum.

Recommended by Judge Fish, who presided at the trial, and by the district attorney, who prosecuted the case. In view of these recommendations, I have accordingly commuted this man's sentence.

December 8, 1920. John Belfiore. Convicted in Kings county of manslaughter, first degree, and sentenced in June, 1918, to Sing Sing Prison for a term of 6 years minimum; 12 years maximum.

Commuted to 2 years and 6 months minimum; 12 years maximum.

Granted upon the recommendation of Judge Gallagher, who presided at the trial, who voluntarily recommended that this man's sentence be commuted so that he might be released under and subject to the jurisdiction of the Parole Board.

December 15, 1920. Alvin W. Swenson. Convicted in Bronx county of grand larceny, first degree, and sentenced in January, 1920, to Sing Sing Prison for 2 years minimum; 5 years and 7 months maximum.

This man's minimum time would expire June 14, 1921. I am, therefore, reducing the sentence by about six months. This commutation is granted also upon the recommendation of the judge and district attorney; also, the president of the bank from which the money was taken.

December 13, 1920. Herman Altman and David Tannenbaum. Convicted in Richmond county of assault, second degree, and sentenced in March, 1920, to Sing Sing Prison for a term of 2 years and 6 months minimum; 4 years and 6 months maximum.

Commutated to 9 months, 10 days minimum; 4 years, 6 months maximum.

These commutations are granted upon the express recommendation of the district attorney of Richmond county, which communication is on file in the Governor's office in these cases.

December 15, 1920. John Sladick. Convicted in Onondaga county of manslaughter, second degree, and sentenced in April, 1919, to Auburn Prison for a term of 3 years minimum; 5 years maximum.

Commutated to 1 year, 7 months and 22 days minimum; 5 years maximum.

This man's minimum time would expire July 27, 1921, and I am, therefore, reducing his sentence by about six months. Clemency is recommended, also, by Judge Cobb, who presided at the trial, and by the district attorney who prosecuted the case.

December 16, 1920. Andrew Di Carlo. I have given much thought and careful study to the Andrew Di Carlo case, and after a most thorough consideration of all the facts and circumstances in connection with the crime committed, I am unable to reach the conclusion that this man should pay the extreme penalty of the law.

It appears from the record that the jury which convicted this man was out for a period of six and one-half hours and that they repeatedly returned to the court for instructions as to the different degrees of homicide, or for the degrees of crime for which this man might have been convicted. This fact alone proves to me that there was a reasonable doubt in the minds of the jury as to whether Di Carlo should have been convicted of murder in the first degree, or of some lesser crime. I am solving that doubt in my mind by commuting the sentence of Di Carlo to life imprisonment.

December 20, 1920. James Flannagan. Convicted in Bronx county of robbery in the first degree, and sentenced in March, 1916, to Sing Sing Prison for a term of 16 years and 5 months.

Commutated to 4 years, 9 months and 10 days minimum; 16 years and five months maximum.

This commutation is granted upon the express recommendation of the judge and district attorney — Judge Gibbs, who pre-

sided at the trial, and District Attorney Martin of Broome county — also recommended by the prison physician, the recommendations being based solely upon the fact that this man is gradually growing blind.

I have accordingly commuted this man's sentence so that he may be released under and subject to the jurisdiction of the Parole Board.

December 30, 1920. Samuel Goldberg. Convicted in New York county of manslaughter, first degree, and sentenced December, 1915, to a term of 10 years.

Committed to 5 years, 1 month and 9 days minimum; 10 years maximum.

I am reducing this sentence by eleven months in order that this man may have an opportunity to take care of his children and his mother-in-law, who has cared for them as best she could during his term in prison. I am assured that steady employment awaits this man, and I make that statement only after personal investigation.

December 30, 1920. Samuel Edinger. Convicted in Erie county of receiving stolen property, and sentenced in May, 1919, to a term of 2 years minimum; 5 years maximum.

Committed to 8 months minimum; 5 years maximum.

I am commuting this sentence first because of the condition of this man's family; he has a wife and three children living upon the charity of relatives, who are, themselves, not in a very good position to meet the needs of the family; his wife, herself, is helpless, having a young baby born to her on the day her husband went into prison. Aside from this, he has served a substantial portion of his sentence. Second, because I am further moved to a commutation by the facts set forth in the letter from the district attorney, "that upon the trial of the defendant, the jury disagreed."

December 30, 1920. Anna Gold. Convicted in Kings county of grand larceny, second degree, as a first offense, and sentenced in March, 1919, to 3 years and 6 months.

Committed to 1 year, 9 months and 14 days minimum; 3 years and 6 months maximum.

By commutation, I am reducing this sentence by a little more than eight months. She has served a substantial portion of

sentence and her husband, who is a well-to-do business man, has given me assurances that upon her release he will take care of her.

December 30, 1920. Willet J. Springsteel. Convicted in Westchester county of murder in the second degree, and sentenced in June, 1904, for 20 years minimum; life maximum.

Commutated to 16 years, 6 months and 17 days minimum; life maximum.

I am commuting this sentence to the time actually served. If he were convicted of murder in the second degree today he would be required to serve under the law but a period of 15 years. Inasmuch as this man has served additional time and is past seventy years of age, and always had an excellent prison record, I am taking one and a half years off his sentence so that he may be released on parole.

December 30, 1920. Giovanni Manghavita (alias Manglavita). Convicted in Kings county of assault in the first degree, second offense, and sentenced in May, 1913, to a definite sentence of 20 years.

Commutated to 7 years and 8 months minimum; 20 years maximum.

I am commuting this sentence upon the express recommendation of Judge Fawcett of the Supreme Court, who writes me on December twentieth of this year that he favors a commutation of this sentence to the time already served in order that he may be put under jurisdiction of the Board of Parole.

December 30, 1920. John Walsh. Convicted in New York county of assault in the second degree, second offense, and sentenced in September, 1919, to a definite term of 5 years and 3 months.

Commutated to 1 year, 3 months and 11 days minimum; 5 years and 3 months maximum.

I am commuting this sentence to the time served in view of the communication from the district attorney, under date of December 10, 1920, which apparently throws a new light upon the case. The man was given an extraordinary sentence of 5 years and 3 months for assault. I am satisfied after a careful study of the case and of the district attorney's statement, that

the ends of justice will be served if the sentence is commuted the time already served by the prisoner.

December 30, 1920. Joseph Murphy. Convicted in New York county of murder in the second degree, and sentenced in October, 1912, to 20 years minimum; life maximum.

Commutated to 9 years, 2 months and 22 days minimum maximum.

Commutation is granted in this case upon the specific recommendation of Judge Rosalsky of the Court of General Sessions who says:

"I am of the opinion that the prisoner has been substantially punished for his crime and that the interests of justice will be served if Your Excellency will commute the sentence to the term of imprisonment which he has already undergone."

December 30, 1920. Charles Benjamin. Convicted in Orange county of murder in the second degree, and sentenced in February, 1913, to a term of 20 years to life.

Commutated to 7 years, 10 months and 19 days minimum maximum.

This commutation is granted upon the express recommendation of Judge Mills of the Appellate Division of the Supreme Court, who convicted Benjamin. Judge Mills advises me that he believes that in the interest of justice this commutation should be granted. His reasons are set forth in great detail in the report now on file in the Governor's office.

December 30, 1920. Tony Brutto. Convicted in Bronx county of abduction and attempted rape, first degree, and sentenced in December, 1919, to 5 years minimum; 9 years and 7 months maximum.

Commutated to 1 year and 1 month minimum; 9 years and 1 month maximum.

This commutation is recommended by Judge Gibbs, who presided at the trial, and by District Attorney Martin of the Bronx, also at the request of the injured girl in the case, who advised me that she is ready and willing to marry this man upon his release.

December 31, 1920. Zekeman Islam. Convicted in Chautauqua county of manslaughter, first degree, and sentenced in January, 1918, to Auburn Prison for a term of 10 years to 17 years and 4 months.

Commuted to 2 years, 11 months and 18 days minimum; 17 years and 4 months maximum.

I am commuting the sentence of this man to the time served upon the express recommendation of the assistant district attorney, who prosecuted the case, and of the judge of the Supreme Court, who sat in the trial of the case. These specific recommendations are in the files in the office of the Governor.

December 31, 1920. Robert Gallagher (Gallaher). Convicted in New York county of forgery, third degree, and sentenced in January, 1920, to serve a term of 2 years and 6 months minimum; 4 years and 6 months maximum.

Commuted to 1 year and 3 months minimum; 4 years and 6 months maximum.

I have commuted this sentence in order that this man may actually serve a year and three months. In view of his previous good record and the substantial offer of employment made by a very reputable business house, so that he may be able to take care of his wife and children. I feel that the ends of justice will be met when he will have served a year and three months — actual time. Thereafter, he will be placed under the jurisdiction of the Board of Parole.

December 31, 1920. John Elkenburg. Convicted in Fulton county of murder in the second degree, and sentenced to Clinton Prison, March 31, 1917, to 20 years minimum; maximum, 9 years and 3 months.

Commuted to 7 years and 6 months minimum; 20 years maximum.

This commutation is recommended by the late Judge Salisbury, who sat in the trial of this man — that this defendant be permitted to go out on parole. That, in view of all the circumstances, I am not willing to do, but I do believe that the ends of justice will be met if John Elkenburg's sentence is reduced to a period of 7 years and 6 months minimum; 9 years and 3 months maximum — the same sentence that was imposed upon his wife, who was jointly tried with him.

RESPITES.

January 5, 1920. Walter Bojanowski. Convicted in Erie county of murder, first degree, and sentenced February, 1919, to be executed.

Respite granted until week beginning April 5, 1920; March 25, 1920, further respite granted until week beginning September 6, 1920.

January 28, 1920. Richard Harrison. Convicted in New York county of murder, first degree, and sentenced January, 1919, to be executed.

Respite granted until week beginning March 1, 1920; February 19, 1920, further respite granted until week beginning April 5, 1920; April 7, 1920, further respite granted until week beginning May 10, 1920.

February 4, 1920. James Cassidy. Convicted in Bronx county of murder, first degree, and sentenced January, 1919, to be executed.

Respite granted until week beginning February 23, 1920; February 19, 1920, further respite granted until week beginning April 26, 1920; April 29, 1920, further respite granted until week beginning May 24, 1920; May 22, 1920, further respite granted until week beginning August 2, 1920; July 31, 1920, further respite granted until week beginning December 6, 1920.

February 4, 1920. Charles F. McLaughlin. Convicted in Bronx county of murder, first degree, and sentenced January, 1919, to be executed.

Respite granted until week beginning February 23, 1920; February 19, 1920, further respite granted until week beginning April 26, 1920; April 29, 1920, further respite granted until week beginning May 24, 1920; May 22, 1920, further respite granted until week beginning August 2, 1920; July 31, 1920, further respite granted until week beginning December 6, 1920.

February 4, 1920. Joseph Usef. Convicted in Bronx county of murder, first degree, and sentenced January, 1919, to be executed.

Respite granted until week beginning February 23, 1920; February 19, 1920, further respite granted until week beginning April 26, 1920; April 29, 1920, further respite granted until

week beginning May 24, 1920; May 22, 1920, further respite granted until week beginning August 2, 1920; July 31, 1920, further respite granted until week beginning December 6, 1920.

February 19, 1920. Joseph Milano. Convicted in Bronx county of murder, first degree, and sentenced January, 1919, to be executed.

Respites granted until week beginning April 26, 1920; April 29, 1920, further respite granted until week beginning May 24, 1920; May 22, 1920, further respite granted until week beginning August 2, 1920; July 31, 1920, further respite granted until week beginning December 6, 1920.

April 12, 1920. Chester D. Cantine. Convicted in Dutchess county of murder in the first degree, and sentenced June, 1919, to be executed.

Respite granted until week beginning May 10, 1920.

May 21, 1920. James M. Byrd. Convicted in Ulster county of murder in the first degree, and sentenced May, 1919, to be executed.

Respite granted until week beginning July 19, 1920.

June 23, 1920. John Egan. Convicted in Bronx county of murder in the first degree, and sentenced October, 1919, to be executed.

Respite granted until week beginning August 23, 1920.

August 20, 1920. Michael Casalino. Convicted in Queens county of murder in the first degree, and sentenced June 17, 1919, to be executed.

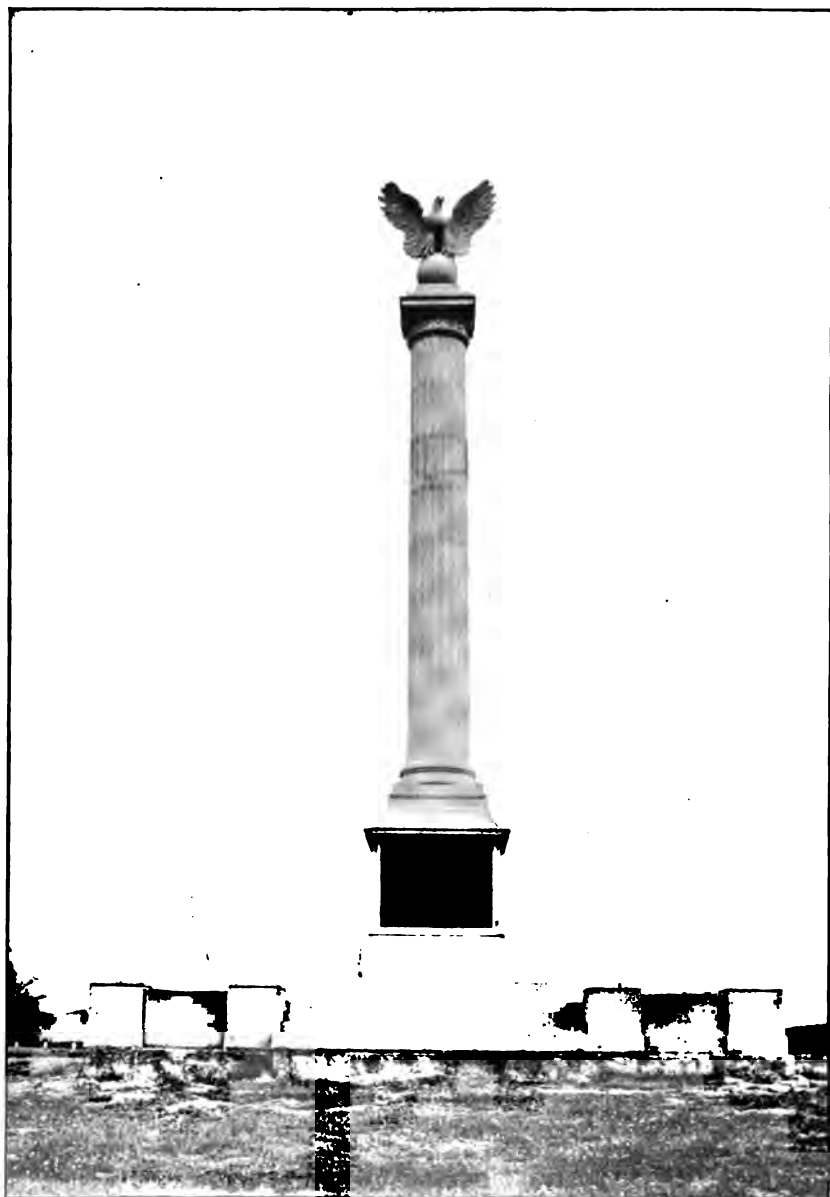
Respite granted until week beginning December 13, 1920; December 6, 1920, further respite granted until week beginning February 7, 1921.

August 24, 1920. Andrew DeCaro. Convicted in Chemung county of murder in the first degree, and sentenced December, 1919, to be executed.

Respite granted until week beginning November 15, 1920; November 5, 1920, further respite granted until week beginning December 13, 1920.

December 15, 1920. Jesse Walker (alias Reklaw. Convicted in Kings county of murder in the first degree, and sentenced March, 1920, to be executed.

Respite granted until week beginning February 7, 1921.



NEW YORK STATE MONUMENT — BATTLEFIELD OF ANTIETAM



STATE OF NEW YORK

REPORT

OF THE

**NEW YORK MONUMENTS
COMMISSION**

**For the Battlefields of Gettysburg,
Chattanooga and Antietam**

For the Year 1920



**ALBANY
J. B. LYON COMPANY, PRINTERS
1921**

REPORT OF THE NEW YORK STATE MONUMENTS COMMISSION FOR THE BATTLEFIELDS OF GETTYS- BURG, CHATTANOOGA AND ANTIETAM FOR THE YEAR 1920

January 1, 1921.

To the Governor and Legislature:

I have the honor to submit the following report, for the year 1920, of the New York Monuments Commission for the Battlefields of Gettysburg, Chattanooga and Antietam authorized by the act instituting it to determine the positions and movements of the New York organizations engaged in battlefields of the Civil War, and to erect such memorials, monuments and markers on those battlefields, in commemoration of their services, as may be required from time to time, pursuant to acts of the Legislature of this State.

The present members of the Commission are: Lewis R. Stegman, Clinton Beckwith, Charles A. Shaw (veterans of the Civil War) and Brigadier General J. Leslie Kincaid, The Adjutant General. Lewis R. Stegman, chairman; J. W. Lynch, secretary.

NEW YORK STATE MONUMENT, BATTLEFIELD OF ANTIETAM

The State monument for the battlefield of Antietam, in Maryland, authorized and provided for under chapter 151, Laws of 1918, and chapter 177, Laws of 1919, was erected complete in June, 1920.

The plans and specifications for this monument were prepared by Edward P. Casey, a New York architect. The contract for its construction and erection was awarded to The John Swenson Granite Company of Concord, N. H., at the price of \$26,450, including the cost of the four bronze inscription tablets. These tablets were cast by the Henry-Bonnard Bronze Company of Mount Vernon, N. Y. The models for them, as well as that for the eagle, were furnished by Ricci and Zarri, architectural sculptors, of New York.

The monument takes the form of a shaft, of the Roman doric order, surmounted by an eagle, and supported on a pedestal occu-

pying the centre of a platform, which measures 36 feet square. The platform has a low parapet, and it is approached at the centres of the four sides by steps. The entire structure rises to a height of 58 feet. Including the eagle, it is constructed of cut white Concord granite.

Standing on an eminence, and centred in what were the most hotly-contested arenas of battle, this memorial, the most magnificent on the field, is entirely worthy of representing the Empire at Antietam. The eagle that crowns it is of huge size and of strenuous mould.

The bronze tablets on the four sides of the die, measure four feet five and a half inches by four feet ten inches.

Underneath the coat of arms of this State, reproduced on the front of the die, the following dedicatory inscription is shown:

THE STATE OF NEW YORK
IN COMMEMORATION OF THE SERVICES
OF ITS OFFICERS AND SOLDIERS
IN THE BATTLE OF ANTIETAM,
SEPT. 17, 1862.

SECOND TABLET.

RECORD OF NEW YORK STATE AT ANTIETAM.

Sixty-seven regiments of infantry, five regiments of cavalry, fourteen batteries of artillery and two regiments of engineers.

New York's losses on this field were: 65 officers and 624 enlisted men killed or mortally wounded, 110 officers and 2,687 enlisted men wounded and 2 officers and 277 men captured or missing, making a total of 3,765.

GENERAL OFFICERS FROM NEW YORK STATE IN COMMAND

Corps Commanders

Maj. Gen. Edwin V. Sumner, 2nd C.
Maj. Gen. Fitz John Porter, 5th C.

Division Commanders

Maj. Gen. Henry W. Slocum
Maj. Gen. George W. Morell
Maj. Gen. Darius N. Couch.
Brig. Gen. James B. Ricketts
Brig. Gen. Abner Doubleday
Brig. Gen. George S. Greene

Brigade Commanders

Brig. Gen. M. R. Patrick
Brig. Gen. Abram Duryee
Brig. Gen. Thomas F. Meagher
Brig. Gen. Geo. L. Hartsuff
Brig. Gen. Max Weber
Brig. Gen. Erastus B. Tyler
Brig. Gen. John Cochrane
Brig. Gen. Edward Ferrero
Brig. Gen. G. K. Warren

Col. Wm. H. Christian
 Col. Walter Phelps, Jr.
 Col. T. B. W. Stockton
 Col. Joseph J. Bartlett
 Col. H. S. Fairchild

Col. John Burke
 Col. William B. Goodrich
 Col. Wm. P. Wainwright
 Lt. Col. Jonathan Austin
 Lt. Col. James C. Lane

Erected A. D. 1919

Under the Auspices of the New York Monuments Commission

THIRD TABLET.

NEW YORK COMMANDS AT ANTIETAM

Cavalry

1st Cav., Maj. Alonzo W. Adams
 2nd Cav., 4 Co's., Capt. John E. Naylor
 6th Cav., 2 Co's., Capt. Henry W. Lyon
 6th Cav., Capt. Riley Johnson
 6th Cav., 8 Co's., Col. Thomas C. Devin
 8th Cav., Benjamin F. Davis
 Oneida Cav., Capt. Daniel P. Mann

Artillery

1st Reg. Light Artillery
 Bat. B, Capt. Rufus D. Pettit
 Bat. C, Capt. Almont Barnes
 Bat. G, Capt. John D. Frank
 Bat. L, Capt. Jno. A. Reynolds
 Bat. M, Capt. Geo. W. Cothran
 2nd Reg. Light Artillery
 Bat. L, Capt. Jacob Roemer
 1st Battalion Light Artillery
 Bat. A, Lt. Bernhard Wever
 Bat. B, Lt. Alfred VonKleiser
 Bat. C, Capt. Robert Langner
 Bat. D, Capt. Charles Kusserow
 Independent Light Batteries
 1st, Capt. Andrew Cowan
 3rd, Capt. William Stuart
 5th, Capt. Elijah D. Taft
 10th, Capt. John T. Bruen

Engineers

15th Reg., Col. John McL. Murphy
 50th Reg., Lt. Col. Wm. H. Pettes

Infantry Regiments

4th, Lt. Col. John D. McGregor
 5th, Capt. Cleveland Winslow
 7th, Capt. Charles Brestel
 9th, Lt. Col. Edgar A. Kimball
 10th, Lt. Col. John W. Marshall
 12th, Capt. William Huson
 13th, Col. Elisha G. Marshall
 14th, Col. James McQuade
 16th, Lt. Col. J. Seaver
 17th, Lt. Col. Nelson B. Bartram
 18th, Lt. Col. George R. Myers
 20th, Col. Ernest Von Vegesack
 21st, Col. William F. Rogers

22nd, Lt. Col. John McKee, Jr.
 23rd, Col. Henry C. Hoffman
 24th, Capt. John D. O'Brien
 24th, Lt. John Ratigan
 25th, Col. Charles A. Johnson
 26th, Lt. Col. R. H. Richardson
 27th, Lt. Col. Alex. D. Adams
 28th, Capt. Wm. H. H. Mapes
 30th, Col. Wm. M. Searing
 31st, Lt. Col. Francis E. Pinto

Infantry Regiments

32nd, Col. Roderick Matheson
 32nd, Maj. George F. Lemon
 33rd, Lt. Col. Joseph W. Corning
 34th, Col. James A. Suiter
 35th, Col. Newton B. Lord
 36th, Col. Wm. H. Browne
 42nd, Lt. Col. Geo. N. Bomford
 42nd, Maj. James E. Mallon
 43rd, Maj. John Wilson
 44th, Maj. Freeman Conner
 46th, Lt. Col. Joseph Gerhardt
 49th, Lt. Col. Wm. C. Alberger
 49th, Maj. George W. Johnson
 51st, Col. Robert B. Potter
 52nd, Col. Paul Frank
 57th, Lt. Col. Philip J. Parisen
 57th, Maj. Alford B. Chapman
 59th, Col. Wm. L. Tidball
 60th, Lt. Col. Chas. R. Brundage
 62nd, Col. David J. Nevin
 61st, Col. F. C. Barlow
 64th, Col. Nelson A. Miles
 63rd, Col. John Burke
 63rd, Lt. Col. Henry Fowler
 63rd, Maj. Richard C. Bentley
 63rd, Capt. Joseph O'Neil
 65th, Col. Alexander Shaler
 66th, Lt. Col. James H. Bull
 66th, Capt. Julius Wehle
 67th, Col. Julius W. Adams
 69th, Lt. Col. James Kelly
 69th, Maj. James Cavanagh
 76th, Col. Wm. P. Wainwright
 76th, Capt. John W. Young
 77th, Capt. Nathan S. Babcock
 78th, Lt. Col. Jonathan Austin
 78th, Capt. Henry R. Staggs
 79th, Lt. Col. David Morrison
 80th, Lt. Col. Theodore B. Gates

82nd, Col. Henry W. Hudson
 83rd, Lt. Col. Wm. A. Atterbury
 84th, Maj. Wm. H. DeBevoise
 88th, Lt. Col. Patrick Kelly
 89th, Maj. Edward Jardine
 93rd, Lt. Col. Benj. C. Butler
 94th, Lt. Col. C. Littlefield
 95th, Maj. Edward Pye
 97th, Maj. Charles Northrup

102nd, Lt. Col. James C. Lane
 102nd, Capt. Daniel M. Elmore
 103rd, Maj. Benjamin Ringgold
 104th, Maj. Lewis C. Skinner
 105th, Col. Howard Carroll
 107th, Col. R. B. Van Valkenburgh
 108th, Col. Oliver H. Palmer
 121st, Col. Richard Franchot
 122nd, Col. Silas Titus

FOURTH TABLE.

New York Officers Killed or Mortally Wounded at Antietam

Maj. Albert Arndt, 1st Batt. Lt. Art.
 Capt. John S. Downs, 4th Inf.
 Lt. Henry K. Chapman, 4th Inf.
 Lt. Hugo Loetze, 7th Inf.
 Capt. Charles Huesler, 7th Inf.
 Lt. Edward C. Cooper, 9th Inf.
 Lt. Gustav A. Lorenz, 20th Inf.
 Lt. Jacob Pabst, 20th Inf.
 Lt. Charles Voelker, 20th Inf.
 Lt. Adolph Frick, 20th Inf.
 Lt. Louis Kraus, 20th Inf.
 Capt. Robert Merkle, 20th Inf.
 Lt. Louis Roth, 20th Inf.
 Lt. Christian Lohman, 20th Inf.
 Lt. Charles Cushing, 22nd Inf.
 Lt. Clarence E. Hill, 34th Inf.
 Capt. James R. Barnett, 35th Inf.
 Capt. Charles McPherson, 42nd Inf.
 Lt. Samuel Dexter, 42nd Inf.
 Lt. Andrew L. Fowler, 51st Inf.
 Lt. Col. Philip J. Parisen, 57th Inf.
 Lt. Henry A. Folger, 57th Inf.
 Lt. Henry H. Higbee, 57th Inf.
 Lt. Col. John L. Stetson, 59th Inf.
 Capt. Charles H. Whitney, 59th Inf.
 Lt. William H. Smurr, 59th Inf.
 Capt. Edward H. Wade, 59th Inf.
 Capt. Abraham Florentine, 59th Inf.
 Capt. Miller Moody, 59th Inf.
 Capt. Gould J. Jennings, 59th Inf.
 Lt. Stephen C. Roosa, 59th Inf.
 Lt. Benjamin VanSteinberg, 59th Inf.

Col. William B. Goodrich, 60th
 Capt. Manton C. Angell, 61st
 Capt. John Kavanagh, 63rd Inf.
 Lt. Patrick W. Lydon, 63rd Inf.
 Lt. Cadwalader Smith, 63rd Inf.
 Lt. Henry McConnell, 63rd Inf.
 Lt. James E. Mackey, 63rd Inf.
 Lt. Timothy Daley, 63rd Inf.
 Lt. George Lynch, 63rd Inf.
 Lt. Frederick M. Crissey, 66th
 Capt. Felix Duffy, 69th Inf.
 Lt. John Conway, 69th Inf.
 Lt. Patrick J. Kelly, 69th Inf.
 Lt. Charles Williams, 69th Inf.
 Capt. Timothy L. Shanley, 69th
 Lt. Ansel Denison, 77th Inf.
 Capt. Peter M. G. Mitchell, 78th
 Lt. Pierson B. Peterson, 78th
 Lt. Martin H. Swarthout, 80th
 Capt. David Myers, 84th Inf.
 Capt. John O'C. Joyce, 88th Inf.
 Capt. Patrick F. Clooney, 88th
 Lt. Garret Vaningen, 89th Inf.
 Lt. Louis Delormi, 97th Inf.
 Capt. M. Eugene Cornell, 102nd
 Capt. Henry A. Sand, 103rd Inf.
 Lt. William Brandt, 103rd Inf.
 Capt. John Kelly, 104th Inf.
 Lt. Charles C. Buckley, 105th
 Col. Howard Carroll, 105th Inf.
 Maj. George B. Force, 108th Inf.
 Lt. David B. Tarbox, 108th Inf.

Lt. Robert E. Holmes, 108th Inf.

The site on which this monument stands is situate in a known as the New York reservation, an enclosure of some acres fronting the east side of the Hagerstown Turnpike, and Dunker Church. This ground was acquired by the State in at the price of \$1,402. Subsequently, the title thereto was purchased in fee simple in the United States government, with the purpose that the proposed New York State monument be placed there and that no other memorial or monument be erected on said land unless by the written consent of the New York Monuments

mission and with the approval of the Secretary of War; and that, subject to the last named condition, this tract shall become a part of the Antietam National Military Park.

A fence, consisting of cement-concrete posts, with three tiers of iron pipe railing, and cement-concrete posts and pillars for the three gates, was constructed around the reservation in 1917.

A regimental monument, that to the Twentieth New York Infantry, was erected on this plot in 1910.

Seven other monuments have also been erected to New York regiments at Antietam: To the Ninth, between Harper's Ferry Road and Branch Lane; to the Thirty-fourth, on Confederate Avenue, near the Dunker Church; to the Fifty-first, at the Burnside Bridge, and to the Eighty-fourth and One hundred and fourth on Cornfield Avenue. Memorials as well have been put up in the Antietam National Cemetery to the Fourth and the Twentieth regiments.

Civil War soldiers to the number of 4,734 (867 of them belonging to New York commands) were interred in this cemetery; and these include soldiers who fell in Washington county elsewhere than at Antietam, as well as in the counties of Frederick and Allegheny. The work of removing the dead was begun in October, 1866, and completed in August, 1867. The cemetery was placed under the jurisdiction of the national government in 1877.

It is also worthy of note, that in the Act of the Maryland Legislature of 1864, inaugurating the proceedings for purchasing ground for this cemetery, the State of New York was especially designated, because shortly after the date of the battle, through its agent, who had visited the field to minister to the wants of the troops from this State who took part in the engagement, an active and earnest sympathy was manifested in the purpose of the Act,—an offer of co-operation by New York being also tendered at that time for the furtherance of the project contemplated.

Considering its relative importance, compared to some more of the national military parks (Gettysburg especially, which can be said to have "the labor of an age" in votive stone and bronze within its boundaries) Antietam as yet is but sparsely furnished with monumental structures. All told, aside from the markers

and tablets, there are not quite sixty monuments on this field. Ten of this number constitute New York's representation, one of which was erected in 1919, near the Dunker Church, by the late Mr. Francis Lynde Stetson, of New York City, to the memory of his brother, Lieutenant-Colonel John L. Stetson, of the Fifth New York regiment, who was killed during General Sherman's ill-starred advance beyond the Hagerstown Turnpike. Pennsylvania has nineteen monuments in Antietam. State monuments have been erected there by Indiana, Ohio, Massachusetts, New Jersey, Vermont and Maryland; and Connecticut's monuments include one to the memory of General Mansfield.

NEW YORK AT ANTIETAM.

The State of New York was represented in the Army of the Potomac during the Antietam operations by 67 regiments of infantry, 5 regiments of cavalry, 14 batteries of artillery and 2 regiments of engineers; an aggregate of 88 organizations comprising nearly 28 per cent of all the Union commands.

No other state either had so long a casualty list at this battle as New York; its losses being 3,765, or over 32 per cent of the entire Federal losses.

New York was represented in the battle of South Mountain by 33 regiments of infantry; 2 regiments of cavalry and 2 batteries of artillery; its losses there being 425, or 18 per cent of all the Union casualties.

Adding New York's losses at South Mountain to those sustained at Antietam, its entire casualties in the two battles come to 4,190.

New York was also represented in the siege and surrender of Harper's Ferry by 1 regiment of cavalry, 2 batteries of artillery and 6 regiments of infantry.

Of the 20 regiments from 8 states sustaining the heaviest losses at Antietam, 7 were from this State, or 35 per cent.

Of the 194 officers of the Union army killed at Antietam who died subsequently of wounds suffered there, 65 were from New York, or above 32 per cent.

DEDICATION OF NEW YORK STATE MONUMENT

The State monument at Antietam was dedicated on September 17, 1920. The ceremonies for it were appropriate and impressive.

sive. Two hundred and fifty veterans, consisting of delegations from nearly all the eighty-eight New York commands in the battle, took part in them. The State, through the New York Monuments Commission, furnished them with transportation to Sharpsburg and return, as well as maintenance and quarters there.

Their venerable years — a large number of them having passed the four score mark, while a few of them are ninety years old — together with the long interval that had elapsed since the battle was fought, exactly fifty-eight years, lent an air of solemnity to the occasion.

The day was ideal for dedicatory exercises. The veterans marched in line from the Dunker Church to the monument, which is nearby. The procession was led by Colonel Lewis R. Stegman, Chairman of the Commission, with Mr. Thomas J. McConkey, Ninth New York cavalry, who was assistant adjutant-general for the occasion. General John A. Reynolds was assigned to the post of grand marshal, with Captain Wm. H. H. Mapes, chief of staff. Music was furnished by the Rohrerstown band. Through the courtesy of the war department, a battery of artillery and a troop of cavalry, from Fort Myer, Captain J. T. Cole, U. S. A., commanding, was present for escort duty and to fire the salutes customary at such functions.

A large proportion of the veterans in that procession fought at Antietam. On their arrival at the monument they were afforded an opportunity of observing the scenes of their exploits in the severest one-day conflict of the Civil War. From that spot, which is on an eminence, in the New York reservation, a comprehensive view is had of all the best-remembered arenas in the battlefield, except the Burnside Bridge and the ridges between it and Sharpsburg. The West Woods extended north of the Church. On their right, half a mile or so away, were the Cornfield and the East Woods. On the background were the Mumma House and the Roulette House, and farther south, a third and two-thirds of a mile, respectively, the Bloody Lane and the Piper House.

Three of the veterans held commands in the battle: Lieutenant-General Nelson A. Miles, U. S. A., of Washington, D. C.,

succeeded General Barlow, when, while leading the Sixty-third and Sixty-fourth New York regiments — forming one command — he was wounded at the Bloody Lane. General John A. Arnold, of Fairport — one of the noble nonagenarians in charge of Battery L, First New York light artillery, fought with distinction at the Cornfield and the East Woods where Stonewall Jackson and General Hooker contended victoriously and persistently for superiority. Captain Wm. H. H. Miles, whose home is in Emporia, Kansas, commanded the Twentieth New York regiment, which belonged to one of the brigades of General Mansfield's corps, which, after General Hooker was tired, was engaged with Stonewall Jackson's men at the Cornfield and its no less renowned purlieus.

Colonel Lewis R. Stegman presided at the ceremonies. He was a survivor of the battle. His regiment, the One hundred and Second, was posted in close proximity to the New York regiments. The Rev. William T. Pray, of the same regiment, was another participant. Mr. Pray it was who pronounced the prayer at the dedication. The monument was unveiled by Margaret Wheeler, of Cold Spring Harbor. Miss Wheeler was the daughter of a Civil War Veteran.

Colonel Stegman in the course of his remarks reviewed the different phases of the greatest one-day contest, pointing out at the meantime the places where the fighting was fastest and fiercest.

The dedication poem, "New York at Antietam," was read by Mr. Joseph I. C. Clarke. It was an effort fully worthy of the event. The New York Sun styled it "A happy fusion of an ideal vision with clear drawn pictures and the inevitable magic names — 'Fighting Joe' Hooker and 'Stonewall' Jackson and Burke and Barlow and Miles, whose living presence was part of yesterday's glory."

General Miles in the introduction of his oration expressed the pleasure it gave him and the honor he felt in having such an opportunity to address so inspiring a gathering of the heroes who had fought with him at Antietam. He made brief allusion to the genesis of the Civil War and the herculean efforts put forth by both sides ere the issue raised by it was finally decided.

he commented on the danger that threatened the North when General Lee and Stonewall Jackson led the Confederate army into Maryland, flushed with their victories during the second Manassas operations; and how the Army of the Potomac, under General McClellan, compelled them to return to Virginia disappointed and virtually defeated. General Miles also emphasized the triumphant part played in the battle by the division to which his own command belonged, General Richardson's, which wrested the Bloody Lane from General D. H. Hill, after a stubborn and costly resistance.

Major-General John F. O'Ryan, N. G., S. N. Y., who commanded the Twenty-Seventh Division in Flanders, and who represented for the occasion Governor Alfred E. Smith, in his oration contrasted warfare at home, in the early sixties, with the cataclysm that had rent asunder foreign lands for another four years, half a century after. He was doubtful whether the "boys" who wore the blue and the "boys" who wore the gray would agree with their grandsons, returned from France or Belgium, when telling them offhand that after all they did not know what real fighting was. Modern methods and implements of war, he said, such as gas, bombs, airplanes, and the like, made the battlefield much more difficult and dangerous than it used to be; but as of old, as for instance, in the Civil War, it is discipline, combined with courage, morale and determination, more than anything else, that helps to win victories. And these fundamental soldierly qualities it was that enabled the American boys to overcome all opposition in their dash for the Rhine. General O'Ryan illustrated and enlivened his address with pointed anecdotes of incidents that came to his attention while leading his troops against the Hindenburg line.

In behalf of the people of Sharpsburg, his native town, Mr. Raleigh Sherman, of Washington, D. C., delivered a welcome address. State Senator Downing also spoke.

The other members of the Legislature who attended the dedication were: Senator George L. Thompson and Assemblymen Morell E. Tallett, Bert Lord, Thomas A. McWhinney, Warren I. Lee, Charles D. Donohue, Peter A. Leininger and Peter J. Hamill.

PROPOSED MONUMENT TO THE MEMORY OF GENERAL BARLOW IN GETTYSBURG

The Commission has applied to the Legislature of 1921 for an appropriation of \$20,000, to cover the cost of the proposed bronze statue to the memory of Major-General Francis O. Barlow on the battlefield of Gettysburg, State of Pennsylvania, and its dedication, with suitable ceremonies, in the fall of 1922.

General Barlow commanded with distinction one of the divisions of the Eleventh corps — General O. O. Howard's — in the battle of Gettysburg. The Eleventh corps, conjointly with the First — General Abner Doubleday in command — resisted, with vastly inferior numbers, on July 1, 1863, the Confederate advance on the town of Gettysburg. General Barlow was severely wounded that day, as he was at the Bloody Lane in Antietam, on September 17, 1862. He was also highly commended for his valor and ability at Fair Oaks, Spotsylvania and Petersburg, and for his part in the final operations at Appomattox. After the war, General Barlow was Secretary of State of New York; United States marshal of the southern district of New York, to which post he was appointed by General Grant; and in 1871 he was elected Attorney-General of this State.

RECEIPTS AND EXPENDITURES

The following appropriations were allowed by the Legislature of 1920 for the use of the Commission:

Receipts

Personal service	\$5,740 00
Maintenance and operation	1,840 00
Dedication of New York State monument, battle- field Antietam	17,500 00

Expenditures.

Personal service	\$5,740 00
Maintenance and operation	1,737 24
New York State monument, Antietam	29,022 06
Dedication, New York State monument, Antietam.	15,586 66

Application has been made to the Legislature of 1921 to have the following sums appropriated:

Personal service	\$5,740 00
Maintenance and operation	1,690 00
Bronze statue to Major-General Francis C. Barlow, on the battlefield of Gettysburg, Pa., and its dedication, with suitable ceremonies, in the fall of 1922.	20,000 00

LEWIS R. STEGMAN,

Chairman.

STATE OF NEW YORK

REPORT

OF THE

Superintendent of Public Works

ON THE

CANALS OF THE STATE

For the Year Ended December 31, 1920

AND ON THE

TRADE AND TONNAGE OF THE CANALS FOR THE
YEAR 1920



ALBANY
J. B. LYON COMPANY, PRINTERS
1921

REPORT

OFFICE OF THE SUPERINTENDENT OF PUBLIC WORKS

ALBANY, January 3, 1921.

To the Honorable, the President of the Senate, and to the Honorable, the Speaker of the Assembly:

SIRS.—Pursuant to the provisions of Chapter 13 of the Laws of 1909, known as the Canal Law, I present herewith a report of the trade and tonnage of the canals of the State during the season of navigation of 1920; as to the condition of the canals and the work and improvements connected therewith; and an account of the moneys received and expended during the year.

There will also be found in the report a discussion of matters coming under the jurisdiction of the department, with recommendations as to action which seems desirable, all of which I respectfully submit for your consideration.

SCOPE

I give you below a list of the various topics discussed:

Trade and Tonnage:

- Season's traffic.
- Distribution and flow of traffic.
- Classification of traffic.
- Comparison of traffic with 1919.
- Analysis of traffic.

Transportation Facilities:

- Number, type and ownership of boats in service.
- Common carrier service.
- Private operations.

Government Canal Operations:

- Efforts to compel discontinuance.
- Federal movement of traffic.

Canal Traffic Bureau:

- Activities of traffic bureau.
- Canal freight rates.
- Possibilities of future business.
- Industrial development.
- Rail-canal interchange facilities.

SUPERINTENDENTS OF PUBLIC WORKS 1878-1920

Name	Residence	Appointed
Benjamin S. W. Clark.....	Sing Sing.....	January 30, 1878
Silas B. Dutcher.....	Brooklyn.....	January 16, 1880
James Shanahan.....	Tribes Hill.....	January 16, 1883
Edward Hannan.....	Troy.....	December 16, 1889
George W. Aldridge.....	Rochester.....	January 2, 1895
John N. Partridge.....	Brooklyn.....	January 16, 1899
Charles S. Boyd.....	New York.....	December 20, 1901
N. V. V. Franchot.....	Olean.....	January 4, 1905
Frederick C. Stevens.....	Attica.....	January 14, 1907
Charles E. Treman.....	Ithaca.....	January 4, 1911
Duncan W. Peck.....	Syracuse.....	January 16, 1912
William W. Wotherspoon....	Utica.....	January 6, 1915
Lewis Nixon.....	New York city.....	January 9, 1919
Edward S. Walsh.....	Brooklyn.....	May 3, 1919

DEPUTY SUPERINTENDENTS

Patrick J. McWeeney.....	Herkimer.....	October 6, 1896
Elon H. Hooker.....	New York.....	February 1, 1899
Winlow M. Mead.....	Rochester.....	August 25, 1901
Wm. J. Morrissey.....	Saratoga Springs.....	March 28, 1912
Henry D. Alexander.....	Albany.....	January 24, 1915
James E. Doyle.....	Syracuse.....	June 17, 1919

ASSISTANT SUPERINTENDENTS

Eastern Division	Thomas R. Crane, Schenectady
Middle Division	Patrick J. Cawley, Syracuse
Western Division	Charles McDonough, Buffalo

ROSTER OF EMPLOYEES IN THE OFFICE OF SUPERINTENDENT OF PUBLIC WORKS

Deputy Superintendent	James E. Doyle
Assistant Deputy and Chief Clerk	Alfred M. O'Neill
Private Secretary	Frank P. Keenan
Chief of Financial Bureau	H. M. Hulsapple
Auditor and Chief Accountant	Edward L. Walsh
Claims Agent and Special Examiner and Appraiser.....	John A. Dix
Canal Traffic Agent	J. W. Grady
Stenographer and Clerk	J. Wilbur Barnes
Clerk of Statistics	John E. Winne
Stenographer and Clerk	Jessie E. Holmes
Stenographer and Clerk	Mary Kiker
Index Clerk	F. S. Harder
Clerk	Frank Langwig
Inspectors of Steam and Motor Vessels.....	Theo. T. Mercereau William H. Sickles

BOUNDARIES OF DIVISIONS AND SECTIONS OF THE CANALS

The following are the boundaries of the divisions of the canals as by the Canal Board, August 16, 1900:

EASTERN DIVISION

Erie canal.—From the south end of the Albany basin to the easterly of Oneida county; Champlain canal, and their tributary feeders.

MIDDLE DIVISION

Erie canal.—From the easterly line of Oneida county to the easterly of Wayne county; Black River canal; Oswego canal; Cayuga and Seneca canal, and their tributary feeders.

WESTERN DIVISION

Erie canal.—From the easterly line of Wayne county through the city of Buffalo, including its tributary feeders.

The boundaries of the sections of the canals have been fixed as given below.

ERIE CANAL

Section 1. Erie canal, from the south end of the Albany basin to the end of lower Mohawk aqueduct, including Watervliet basin, and Watervliet and Port Schuyler side-cuts; also the Champlain canal from junction with the Erie canal to a point 200 feet north of the Coudersport guard-lock.

Section 2. Erie canal, from the west end of the lower Mohawk aqueduct to the head of Lock No. 27.

Section 3. Erie canal, from the head of Lock No. 27 to the head of Lock No. 34.

Section 4. Erie canal, from the head of Lock No. 34 to the easterly of Oneida county.

Section 5. Erie canal, from the easterly line of Oneida county to the westerly side of Peterboro street bridge in the village of Canastota.

Section 6. Erie canal, from the westerly side of Peterboro street bridge in the village of Canastota to and including the Camillus feeder. Also a portion of the Oswego canal from its junction with the Erie canal in the city of Syracuse to and including Lock No. 4, known as Mud lock, on Liverpool level.

Section 7. Erie canal, from the westerly side of Camillus feeder to the easterly line of Wayne county.

Section 8. Erie canal, from the easterly to the westerly line of Wayne county.

Section 9. Erie canal, from the westerly line of Wayne county to the westerly line of Monroe county.

Section 10. Erie canal, from the westerly line of Monroe county to the head of the guard-lock west of Lockport.

Section 11. Erie canal, from the head of the guard-lock west of Lockport through the city of Buffalo, including Black Rock harbor, Erie and Tonawanda basins and the Clark and Skinner canal.

CHAMPLAIN CANAL

Section 1. Champlain canal, from a point 200 feet north of Cohoes guard-lock to the foot of Lock No. 11, including the Troy sloop-lock and dam and the pond above.

Section 2. Champlain canal, from the foot of Lock No. 11 to the north side of waste-weir at Dunham's Basin; also Glens Falls feeder, the feeder dam and pond above.

Section 3. Champlain canal, from the north side of the waste-weir at Dunham's Basin to Lake Champlain.

BLACK RIVER CANAL

Section 1. Black River canal, from the junction of the Black River canal with the Erie canal to the foot of Lock No. 71, at Boonville; the feeder from Boonville to Forestport; the Black river above the dam at Forestport, including the dam; also the reservoirs and feeders tributary to the canal and feeder as described above.

Section 2. Black River canal, from the foot of Lock No. 71, at Boonville, to Black river, at Lyons Falls; the Black river improvement from Lyons Falls to Carthage, including the dam; also Moose river improvement.

OSWEGO CANAL

Oswego canal, from Lock No. 4, known as Mud lock, through Oswego, including the Seneca river towing path, the Baldwinsville canal and the Oneida river improvement.

CAYUGA AND SENECA CANAL.

Cayuga and Seneca sections.—Cayuga and Seneca canal, from Montezuma to Geneva, with spur from Mud lock to Cayuga lake.

REPORT OF THE SUPERINTENDENT OF PUBLIC WORKS

STATE OF NEW YORK

OFFICE OF SUPERINTENDENT OF PUBLIC WORKS

ALBANY, January 3, 1921.

To the Honorable, the President of the Senate, and to the Honorable, the Speaker of the Assembly:

SIRS.— I have the honor to present to you herewith, in accordance with the provisions of the Canal Law, a report of the trade and tonnage transported upon the State canals during the season of navigation of 1920; with a statement of the condition of the waterways and the work and improvements connected therewith.

There is also presented the financial report of the department, setting forth the amount of moneys received and expended during the year.

Recommendations as to desired legislative action regarding matters connected with the canal are made and the affairs of the State with relation to its waterways are generally discussed.

EDWARD S. WALSH,
Superintendent of Public Works.

State Canal Towing:

Results of season's operations.
Recommendations for future

*St. Lawrence Canal Project.**Navigation:*

Conditions prevailing in 1920.
Channel lights and buoys.

Canal Terminals:

Location and equipment of New York City terminals.
Terminals outside New York City.
Organization for maintenance and operation of terminals.
Charges for use of terminals.
Suggested amendments to Terminal Act.
Revenue secured.
Rules and regulations.

Additional Improvements Desirable in Connection with New Canal and Terminals:

Construction of two grain elevators authorized.
Additional terminal equipment authorized.

Equipment for Maintenance and Operation:

Floating plant.
New repair shops.
Dry docks.
Equipment for lock protection.

Important Canal Repairs Progressed:

Schenectady-Scotia bridge.
Acquisition of toll bridge between Schenectady and Scotia.
Hudson bridge.
Improvement of approaches to Hudson bridge.
Congress Street bridge between Troy and Watervliet.
Twelfth Street bridge between Troy and Cohoes.
Condition of canal bridges.
Glens Falls feeder.
Improvement of Fulmer creek.
Improvement of Limestone creek at Fayetteville.
Oneida feeder improvement.
Griffin creek improvement.
Black River canal improvement.
Preservation of Guy Park House.

Contracts Advertised and Awarded:

Barge Canal construction work.
Terminal construction work.
Under special legislative acts.

*Ditching.**Old Erie Canal from Rome to Mohawk.**Use of Surplus Canal Waters for Power Purposes.**Federal Jurisdiction Over Navigation of the State Canals.**Ice Gorges In the Hudson River.**Necessary Elements of Efficient Canal Management:*

Skilled and permanent force required.

Application of Civil Service principles.

Civil Service policy should be continued and extended.

Term of office and method of appointment of Superintendent of Public Works.

Previous methods of administration.

Office of Superintendent of Public Works created.

Term of office brief and indefinite.

Successful administration handicapped.

Recommendations.

*The Prize Lock.**Bureau of the Inspection of Steam and Motor Vessels Under the Navigation Law.**Bureau of Appraisal and Claims.**Additional Duties of Superintendent of Public Works.**Moneys Collected.**Retirement of Officers and Employees of the State.**Conclusion.*

TRADE AND TONNAGE

SEASON'S TRAFFIC

The 1920 season of navigation on the State waterways closed with an aggregate tonnage transported of 1,421,434 tons, an increase of 182,590 tons over 1919, or about 15 per cent. The traffic was distributed over the several divisions of the system in the following proportions:

<i>Divisions</i>	<i>Tonnage</i>
Erie	891,221
Champlain	485,598
Cayuga-Seneca	36,936
Oswego	3,959
Black River	3,720

DISTRIBUTION AND FLOW OF TRAFFIC

The year's commerce was distributed by class and direction as follows:

	Erie	Cham- plain	Cayuga- Seneca	Oswego	Black River
East	364,205	378,173	36,936	3,509	3
West	527,016	107,425	.....	450	.....
Through	327,945	307,389	5,576	2,359	.....
Local	563,276	178,209	31,360	1,600	3
Through east	200,798	230,046	5,576	2,359	.....
Through west	127,147	77,343	.....	.....	.....
Local east	163,407	148,127	31,360	1,150	3
Local west	399,869	30,082	.....	450	.....

CLASSIFICATION OF TRAFFIC

Itemized tables showing the total tonnage by specific commodities are incorporated elsewhere in this report. Herewith there is shown the season's business by general headings:

<i>Classification</i>	<i>Tons</i>
Products of Manufacture	325,4
Products of Animals . . . . .	.....
Products Miscellaneous	26,4
Products of Agriculture	226,2
Products of Forest	248,9
Products of Ground	594,2

COMPARISON WITH 1919

The increase or decrease for the 1920 season was reflected in the groups covering manufactured and miscellaneous products more than in any other. The manufactured products traffic showed an increase of 122,119 tons over 1919 and the miscellaneous products decreased 37,447 tons. By divisions it will be observed that the traffic on the Erie Division advanced 49,057 tons or 5.8%. The Champlain tonnage increased 121,899 tons or 33.5% and the Cayuga-Seneca business gained nearly 25,000 tons or nearly 300%. Both the Oswego Division and the Black River Canal showed a decrease of 11,929 tons and 1,121 tons respectively.

The increase or decrease in tonnage by the six main groups was:

<i>Classification</i>	<i>Gain</i>	<i>Loss</i>
Products of Manufacture	122,119	.....
Products of Animals . . . . .	.....	697
Products Miscellaneous . . . . .	.....	37,447
Products of Agriculture	41,392	.....
Products of Forest	54,123	.....
Products of Ground	3,100	.....
	=====	=====

The increase or decrease of the principal specific commodities was:

<i>Commodities</i>	<i>Increase</i>	<i>Decrease</i>
Iron, pig and bloom	25,774	.....
Petroleum and products	48,711	.....
Cement	2,908	.....
Salt . . . . .	.....	4,956
Sugar	20,528	.....
Paper and paper products	2,108	.....
Chemicals	12,955	.....
Miscellaneous manufactured products	32,793	.....
Ice . . . . .	.....	39,662
Wheat	42,358	.....
Oats . . . . .	.....	51,376
Rye . . . . .	.....	5,772
Barley . . . . .	.....	11,421
Flour	11,332	.....
Hay	6,418	.....
Flaxseed	44,352	.....
Lumber	25,774	.....
Pulpwood	55,368	.....
Anthracite coal . . . . .	.....	29,102
Iron ore	90,349	.....
Sand, stone, gravel . . . . .	.....	48,556
	=====	=====

ANALYSIS OF TRAFFIC

When the season opened this year, there was every evidence that a record tonnage would be carried. In fact, for the first four weeks of navigation, the traffic increased over 1919 by nearly 100%. Practically every boat to be had was loaded and cargo booked far in advance. After the boat supply was exhausted, however, a slump naturally resulted until the loaded boats could complete their trips and were again available for cargo. Traffic was brisk up to about the first week of August, the increase at that time over 1919 aggregating about 25%. From the first of August until the latter few weeks of the season the situation was very quiet. Railroad transportation conditions were greatly improved and rail service, in view of the high canal rates in effect explained elsewhere in this report, was utilized by many in preference to the waterway. Furthermore, there was a general business depression. Production had been curtailed and traffic was not moving by either the rail or water routes in the volume it did earlier in the year. The peak of the canal business was reached during the month of July when 268,080 tons were transported. The heaviest week was the first week in July when 63,354 tons moved over the canals. I am somewhat disappointed in the year's showing having anticipated a heavier tonnage, nevertheless, many conditions contributed to hold down the volume of many commodities and certain factors operated against the best interests of the waterway. Examination of the statistics of trade and tonnage, however, shows that splendid increases were registered in many items and other commodities have regained in some measure losses sustained in 1919 and previous years. As was the case last season, traffic of the higher class grouped under the heading of "articles of manufacture," show the largest increase. I consider this a most encouraging result. It is ample evidence that canal carriers are not dependent on the low grade freights alone for their cargo and that the high class traffic, yielding a more profitable revenue, is to be had in equally as great volume as the coarse freights.

Typical of the new business in commodities of the higher class was the development of export package freight from Rochester. A weekly service was inaugurated from this port and considerable

quantities of photographic apparatus, optical goods, machinery and products of a like nature were moved via the waterway to New York for export. This was the first instance of the movement of export package freight in any volume via the canals.

The grain business, while an increase was shown in the aggregate tonnage, was the most disappointing. In view of the bumper grain crops the country had produced, every reason existed justifying the expectation an exceedingly heavy movement of grain, particularly wheat, would result. The contrary developed. As the season got under way, it was observed the grain receipts at the Port of Buffalo by lake were very light. In fact, up to the first of September, the port was 24,458,622 bushels behind the corresponding period of 1919. Investigation revealed such condition was largely due to the acute car shortage existing in the grain country. It was not until the late Fall that an adequate car supply was available for movement of grain to the upper lake ports and this movement was not reflected in the Buffalo receipts until almost the close of the season. The fact that the canal grain tonnage for October and November almost exceeded the total of the preceding months of the season is indicative of the situation. Moreover, the grain market declined sharply and those who had bought at the high market were more concerned with quick deliveries, enabling them to turn over their capital with the minimum of loss, than in saving a few cents per bushel in transportation charges. Therefore, a rail movement was favored as against the canal from Buffalo. Another condition of even greater effect, however, was the preferential rail rates in effect from Missouri River territory to Gulf ports. This matter is treated with in detail in another section of this report. It should be understood that the greatest surplus of domestic exportable grains was in Kansas and Nebraska. Ordinarily the bulk of this commerce would have moved via rail and lake through Chicago or Milwaukee to Buffalo and be available for canal movement from Buffalo. A mal-adjustment of rates, however, preferred the Southern all rail route and the bulk of the Missouri River crop was diverted from the rail and lake route and from the Atlantic ports to Gulf ports.

The total through traffic on all divisions showed the greatest percentage of increase. This was apparent to a greater degree

on the Champlain Division than on the Erie. The through traffic increased 30% on all canals and 33% on the Champlain. The splendid increase in the Champlain iron ore traffic of 90,349 tons or over 200% contributed most to this result, although the lumber and pulpwood tonnage on the Champlain Division which declined in 1919 was restored to proportions exceeding the totals of several preceding years.

The flow of traffic was well balanced on the whole east and west. This is a healthy condition as the absence of westbound tonnage had been a matter of much concern in recent years. Solicitation and resumption of imports have corrected the situation and henceforth it may be expected a two-way haul will control.

The commodities showing the largest decreases were coal, ice, oats, barley and sand, stone and gravel. The slump in the grains has been explained. The decrease in the building material tonnage was due to a cessation of building and road-making activities. Most of the ice handled on the canal moves from the lower Mohawk and upper Hudson territory. In the 1918 Winter, when the lower Hudson River crop was light, a demand was created making for a heavy movement from the Mohawk and upper Hudson territory. Last year the Hudson crop was heavy, consequently little ice moved from canal waters. The light coal tonnage resulted from decreased production at the mines. This condition was general throughout Atlantic seaboard territory but I consider it only temporary. The future holds great promise for a restoration of a heavy coal traffic to the canal. The increase in rail freight rates will drive much coal traffic to the water routes and with the development of adequate coal terminal facilities along the waterway now in contemplation by the State, the Barge Canal will participate in a greater degree than did the old Erie Canal in the traffic of fuel consumed in canal territory.

The excellent increase in tonnage on the Cayuga-Seneca Division was made up almost entirely of cement from Cayuga Lake and salt from Seneca Lake. Indications point to an annually increasing tonnage in such commodities from these sources.

The decline in the Oswego Division tonnage resulted from high rates and heavy business on the main line. In 1919 considerable

quantities of trap rock were moved to Oswego via canal. This year the rates demanded proved prohibitive and little tonnage in this commodity was carried. Furthermore, such other business as was available on the Oswego Division was neglected by canal carriers because the Erie Division business presented more attractive earning possibilities and the opportunity for a loaded haul in both directions was greater on the Erie than on the Oswego.

I do not believe much success will be had in increasing traffic on the Black River Canal unless and until the shipping interests in the territory provide the necessary boating equipment. The Black River Canal accommodates boats of 100-ton burden only and almost all boats of this type that remain in service have been purchased by industries for private operation on the Erie Division. It is believed traffic justifying the maintenance of the Black River Canal can ultimately be developed but the shippers of the territory are confronted with the lack of carrying equipment and a carrying organization. A co-operative movement among those interests to acquire the necessary transportation facilities, I believe is the only solution of the problem.

The years 1918, 1919 and 1920 have marked the turning point in canal traffic. An average annual decrease of approximately 15% was arrested in 1918 and but a 9% decrease was shown that year. The season of 1919 produced an increase of 7% over the preceding year and 1920 surpasses the 1919 record by 15%. In a sense, therefore, the total gain since the new waterway came into use is about 30%, and with this start, accomplished during a period of the Nation's history fraught with difficulties and obstacles that were not easily overcome, I predict a constantly increasing annual traffic. In my judgment the next five years will witness the restoration of a water-born commerce through the State between the Niagara Frontier and tidewater that will eclipse even the wonderful achievement of the original Erie Canal. Inland waterway transportation generally is coming into more and more favorable regard throughout the country. The shipping public is returning to first principles. The transportation instrumentalities that contributed more than any other factor to the building up of the country in the early days — the natural water courses — have again come to be considered by straight thinking men as invaluable assets and facilities deserving of utilization and

development. An unwavering policy of modernizing these facilities on the part of Federal and State Governments offers, in my opinion, the final solution of our great transportation problem.

TRANSPORTATION FACILITIES

NUMBER AND TYPE OF BOATS IN SERVICE

The barge registration record of the department shows there were 1,125 boats of all descriptions, exclusive of tug boats, one time or another engaged in trade on the canals. Of this number 367 navigated the Erie, Oswego and Cayuga-Seneca Divisions during the 1920 season; 381 traded on the Champlain Division; 50 carried freight on both the Erie and Champlain branches and 327 were inactive or occupied outside canal waters. The majority of the latter group were employed in New York Harbor. Comparison with the record of the 1919 season reveals that the Erie Division gained 55 boats in 1920, whereas the Champlain was navigated by 84 less barges than in 1919.

For the most part the barges utilized were of the so-called "old type," although quite a few new barges made their appearance in 1920. The majority of the barges were owned and operated by individuals, only about one-third of the total number operated under the ownership of transportation companies.

The following statement shows the various types of craft navigating the canals in 1920, likewise the ownership by three groups:

	Transportation		Industri-
	Individuals	Companies	
Old type, 240-ton barge, wood.....	709	113	
Old type, 100-ton barge, wood.....			
Old type, 150-ton steamer, wood.....	8	16	
Old type, 90-ton packet, wood (inactive)	10		
New type, 500-ton barge, wood.....	72	23	
New type, 350-ton steamer, wood.....		1	
New type, 650-ton barge, steel.....		51	
New type, 350-ton steamer, steel.....		20	
New type, 500-ton barge, concrete.....		21	
New type, 300-ton packet, wood.....			
New type, 400-ton barge, steel.....		8	
New type, 650-ton tank barge, steel..			
	799	253	

The activity of the barges in service was as follows:

	Erie	Champlain
Total trips	3,342	2,562
Total trips, light	1,219	1,077
Total trips, loaded	2,127	1,485
Total miles	595,427	133,939
Total miles, light	135,441	54,681
Total miles, loaded	459,986	79,308
Average miles per trip	178.1	52.2
Average days per trip	7.09	4.4
Average miles per day	25.07	11.8

As against the 1919 season, the operations of 1920 show much greater use was made of available boats. The number of trips made appreciably increased; so too, did the boat mileage. On the Erie Division the average trip mileage decreased, whereas on the Champlain Division it increased. This was due to the increase in the intermediate port traffic on the Erie Division which created shorter hauls and the increase of the long haul or through traffic on the Champlain Canal. Although some criticism was heard during the year of the length of time boats were in transit, the record shows but little change in the averages of 1919 and 1920. The relation of light and loaded movements to the total movement changed for the better and it will be observed by comparison with 1919 that during 1920 barges were in cargo for a greater percentage of trips made. On the whole, the season's activities were fairly efficient and with the introduction of adequate power units for towing purposes, I believe no difficulty will be experienced by operators in regularly making the trip between Buffalo and New York in five days' time, at the most.

SUSPENSION OF RESTRICTIVE REGULATIONS

For a great many years a departmental regulation had been in effect restricting the type of boat permitted to navigate canal waters to craft with rounded bow. Also a regulation prohibiting craft without rudders was in effect.

In the early months of the season when traffic was unusually heavy and the boat supply short of trade demands strong represen-

tations were made to me by interests owning and operating barges of the Hudson River deck scow type and the New York Harbor box type that the suspension of the regulations denying barges of such type the privileges of the canals would operate to relieve the boat shortage and contribute to a greater canal tonnage.

Subsequent to a hearing at which experienced barge operators gave it as their opinion no harm would come to the canal structures by the entrance of square bowed craft into the canal, and after determining that there was some business that could be handled by such type of boat, I suspended the application of the regulations in question and the canal has been navigated during 1920 by any and every boat whose measurement was such as to come within canal clearance limits. No damage or injury whatever was sustained and the only difficulty experienced was in the towing of boats of the type and size making their appearance on the canal after the regulations were suspended.

I believe the experience of 1920 justifies the permanent suspension of the regulations in question. It is my opinion no restrictions should be placed on shippers or carriers relative to the type of barge they may operate on the canals and I am convinced the opening of the door to the deck scow type as well as the box type barge will gain for the waterway much tonnage that heretofore has been declined. I recommend the repeal of the regulations imposing restrictions against boats of any type.

COMMON CARRIER SERVICE

The transportation organization of 1919 was supplemented during the 1920 season of navigation by the advent of four additional carriers; an extensive expansion of another and the broadening of the scope of the service of a sixth.

The most important event in the development of the common carrier service was the entrance of the Transmarine Corporation into the field. While late in inaugurating its service and although only a negligible factor in the 1920 operations the consummation of the plans this company has in mind and the completion of its construction program will place it in the front ranks of canal carriers and it should be a formidable factor in the business of the future. The Transmarine Corporation is a subsidiary of the Submarine Boat Corporation, the latter company

operating a shipbuilding plant on Newark Bay. In connection with its shipbuilding activities there has been developed by this company on Newark Bay, which is an integral part of New York harbor reached through the Kill von Kull from New York Bay, what is known as Port Newark Terminal. Here there is a modern layout of docks and warehouses, where direct shipside delivery from canal barge to ocean vessel or vice versa is accomplished. The Transmarine Corporation is primarily an ocean vessel operating organization and the canal activity of this corporation is supplemental to its ocean service. Eight 400-ton steel barges, 100 feet in length and 22 foot beam, have been placed in service and 36 additional are to be built. It is understood the fleet of 44 barges with the necessary complement of power units will be in service during the 1921 season of navigation. The company owns and operates a private terminal in Buffalo and proposes initially to render a general and bulk cargo service between Buffalo and New York City; Jersey City, Newark, and Port Newark, N. J. The permanency of the operations of this company as well as the efficiency of its service is guaranteed by the substantial nature of its principals. The entrance of the corporation into the canal transportation business is the first evidence of big business recognizing the opportunities for profitable operation offered by the waterway and is welcomed by shipping interests.

The Inland Marine Corporation of New York, operating heretofore as the Shippers' Navigation Company, Inc., is at present the largest single factor in the canal transportation business. During the last year, this corporation underwent reorganization and added considerable equipment to its fleet. It owns and operates at the present time 8 steamers and 53 consorts of the so-called "240-ton" type. The service rendered by this company is largely confined to the through New York-Buffalo trade, although it participated to some extent in the intermediate port business last year. This carrier had a very prosperous and successful season and its management is exceedingly optimistic as to the future. While a relatively small line, it has had four years' operating experience, has passed through the experimental stage and now conducts its operations on a sound, efficient and profitable basis. One steamer of the line established a splendid record

during the summer, traversing the route between Buffalo and New York towing five loaded consort for an aggregate of 6,254 miles and a tonnage of 15,675 net tons. Several other steamers of the company established a mileage record for the season of more than 5,000 miles each and it is believed such performance is nearly double in efficiency that of any other canal carrier. The company carried over 90,000 tons during the season.

The New York & Western Canal Line, Inc., of New York, a company of many years' standing, although of late years inactive in the canal business, resumed activities and operated a considerable number of barges under charter. This line engaged in the bulk and general cargo traffic and although relying entirely on the State towing service for the movement of its boats succeeded in inaugurating a merchandise service that met with general satisfaction.

The Murray Lighterage and Transportation Company, Inc., of New York, and M. and J. Tracy, Inc., of New York, are large operators of barge equipment in New York harbor and adjacent waters. Both companies placed barges in the canal trade during the 1920 season of navigation, operating in a small and somewhat experimental way. It is believed their efforts were rewarded with success and it is expected both interests will continue permanently in the field.

The Marine Express Company of New York was a new venture and while many obstacles and difficulties were encountered by its management arising largely from inexperience in canal operation, reasonable success was achieved and the experience gained during the 1920 season should enable the company to conduct its operation in the future in an efficient and profitable manner.

The Lake Champlain Transportation Company of Whitehall, N. Y., continued in business, confining its operations to the Champlain Division of the system. An excellent tonnage was developed on the Champlain branch during the season and the company participated in the traffic to a great extent. This line owns or operates under charter a considerable proportion of the barges trading on the Champlain Division.

The New York Canal Section, Inland and Coastwise Waterways Service, War Department, as the government fleet operating

on the canals is officially designated, also maintained a service. The operations of this carrier are treated with in detail in another section of this report.

In addition to the organized lines there were a large number of barges, approximately 200, individually owned and operated, that were engaged in carrying freight. These boats were either under charter to operating companies or industrial concerns, or traded independently, acquiring cargo through freight brokers or forwarders.

To sum up, every interest with the exception of the government line, experienced a profitable season. Barge owners found no trouble in acquiring cargo and keeping busy; in fact, at intervals the cargo offerings at some ports were greatly in excess of available barge capacity.

PRIVATE OPERATIONS

The season of navigation of 1920 marked the first entrance of a considerable number of industrial concerns into the field of canal transportation. Also the department has furnished advice and counsel to other industries who contemplate purchasing or building barges and power-boats for canal service. While the operations of some of the newcomers were conducted on a small scale, their experience is understood to have been satisfactory and a continuance of their operations in succeeding years on a broader plan may be expected. Those corporations who had heretofore operated barges in a private service continued their activities and with increased satisfaction, efficiency and profit. The development of this character of service is perhaps the most encouraging of the season's results. I have long held the opinion that if private capital did not soon inaugurate a common carrier transportation service on the waterways, of a nature suiting the requirements of the traffic created by the large industrial enterprises of the State, such industrial establishments would themselves provide facilities whereby the advantages and economies of canal shipping would be available to them. The very appreciable increase in the number of industrial concerns operating barges on the waterway throughout the 1920 season bears out my conviction, and I believe a splendid beginning in the building

up of a private industry canal transportation organization that ultimately will contribute in no small measure to the success of the canals has been made.

The corporations continuing operations in 1920 were the General Electric Company; the Standard Oil Company; the Ore Carrying Corporation; the Glens Falls Portland Cement Company and one or two lesser concerns.

The General Electric Company of Schenectady retained in service its fleet of three packet barges, operated in 1918 and 1919, and added a large high powered tug-boat to its canal equipment. The canal operations of this corporation may now be said to have safely passed through the experimental stage and are on an efficient and profitable basis. As expressed by the official of the company having supervision over its waterway operations, the maintenance of a fleet of canal barges and the rounding out of a smoothly working canal organization has made of the undertaking "a service highly to be desired as a factory facility, and a profitable one." Improvements made by the State in the terminal facilities at Schenectady and New York contributed greatly to the success of this corporation's canal service and now that the company has had conclusive proof of the feasibility and practicability of canal transportation, it may be assumed it will feel justified in increasing its investment in canal equipment and will appreciably expand its waterway operations.

The Standard Oil Company of New York was the most active private operator of the 1920 season and its fleet of nine tank barges, each with a capacity of nearly 200,000 gallons, was in constant service. From a distributing base maintained by the corporation on the Hudson river at Albany, cargo was carried through the Champlain Division to Fort Edward, Whitehall and ports on Lake Champlain. Many trips were made to Burlington, Vt., and Rouses Point, N. Y. On the west deliveries were made at Schenectady, Amsterdam, Little Falls, Utica, Rome, Syracuse, Fulton, Seneca Falls, Geneva and Rochester. The company has acquired realty holdings adjacent to the canal channel at all the ports named, erecting large storage tanks on the shore, running pipe lines from the shore tanks to the water's edge. The tank barges come alongside and the oils are pumped direct from the barge

to shore tanks. At Rochester the company this year expended over \$100,000 in providing docking facilities for its barges and its investment in property and terminal facilities elsewhere along the waterway, as well as in its canal floating equipment, runs into the millions of dollars. During the season the barges operated by the company traversed the system for a total boat mileage of 29,316 miles carrying 94,862 tons of petroleum products. Last year the company carried 46,151 tons. Officials of the corporation advise that plans have been prepared, in fact construction is in progress, for five self-propelled tankers of 700-ton capacity that will be available for service during the 1921 season. With the fleet augmented by this equipment the tonnage that may be carried next season should exceed the aggregate of the 1920 season by a greater percentage than the 1920 exceeded the 1919 season. I accept the canal interest and operations of this huge corporation as final proof of the efficiency of the new canal system. Sagacious in the extreme the corporation early made preparation for an extensive utilization of the Barge Canal System, even before the new waterway assumed completed proportions, and the annually increasing volume of tonnage carried through the canals by its tank barges gives conclusive answer to those who question the economy of canal shipping.

The Ore Carrying Corporation of New York, which for a number of years has engaged in the transportation of iron ore from Port Henry on Lake Champlain, to Elizabethport, N. J., where the cargo is transshipped for rail movement to Bethlehem, Pa., had a most successful season. Operating 60 barges, of which 27 were owned by the corporation and the balance chartered from individual operators, the company carried 132,128 tons of iron ore during the season. In the 1919 season the company handled 41,779 tons and the marked increase in tonnage for 1920 gives promise of an unusually heavy movement in succeeding years. Except in some minor respects, the season's experience of this corporation was highly successful.

The Glens Falls Portland Cement Company of Glens Falls continued its service with six barges. Whereas in previous years it has engaged exclusively in the transportation of cement from Glens Falls to New York, during the 1920 season its product was

handled by water to other canal ports and it is understood, labor troubles had not interfered with production, the cargo tonnage of the company would have shown an appreciable increase. As it was 5,968 tons were carried in 1920 against 3,997 in 1919. Information has been received by the department that this company plans to build six additional boats.

The Sugar Products Corporation re-engaged in the transportation of syrup from New York to Belleville, Ontario, through Oswego Division and across Lake Ontario. This concern owns and operates a tank barge which made three trips during the year.

The Griffin Lumber Company of Hudson Falls, Finckh Pruyn Company of Glens Falls and the Kenyon Lumber Company of Hudson Falls, operated a number of barges in a private service throughout the season.

Foremost among the newcomers in the industrial transportation service was the Pennsylvania Cement Company of New York. This corporation operates a plant at Portland Point on Cayuga Lake and is admirably situated to distribute its product by water in the territory between Lake Erie and Hudson River. It acquired of itself or through subsidiary operating companies nine barges that were employed in transporting cement from Portland Point to various ports. Deliveries were made at Buffalo, Rochester, Lyons, Oswego, Amsterdam, Schenectady, New York and many other ports. The waterway operations of this corporation were developed at a time when the cement situation throughout the State was most acute. Car shortages and the interruption of fuel supply seriously curtailed the production of various other cement companies and the greatest difficulty was experienced by contractors in obtaining cement deliveries. For the greater part of the summer the Pennsylvania Cement Company because of its ability to make canal deliveries was the only concern filling cement contracts throughout the State. The company encountered many difficulties in its initial endeavors but on the whole was well satisfied with its experience and has extensive plans for future operations. It shipped 16,020 tons from its Portland Point plant during the 1920 season.

The canal operations of the Solvay Process Company of Syracuse, on behalf of itself and allied interests as well as its customers, give evidence of developing into permanent activity of no inconsiderable magnitude. Although this corporation did not acquire any barges by purchase or construction, it operated 15 barges under charter arrangement and shipped 27,031 tons. Advices received from the corporation indicate a very successful season was experienced. The traffic manager of the company states, "if it were not for the canal, it would have been impossible for our company to ship the tonnage which we did." Such expression is indicative of the feeling of all those who have had opportunity or occasion to utilize the canal route and I am of the firm conviction the ability of the improved canal system to serve shippers in time of transportation stress will be a most potent factor in the rehabilitation of commerce on the waterways. Its utility in an emergency can not but convince shipping interests of its value as a permanent transportation medium and it may well be expected those whose initial utilization of canal facilities has been in a sense compulsory will hereafter voluntarily seek the route because of its economy and natural advantages.

Among others who made extensive use of the canal throughout the 1920 season of navigation was the Beaver Board Companies of Buffalo. This corporation operated several barges under charter carrying paper stock from New York to its plant at Tonawanda and its finished product on the return trip.

The American Radiator Corporation purchased a fleet consisting of a steamer and five consorts of the old Erie canal type and operated this equipment in a private service out of Buffalo.

The Washburn Crosby Company purchased a barge that was utilized in transporting flour from Buffalo to ports such as Syracuse, Utica and Schenectady.

Intense interest in private operation is manifest among the larger shippers generally. The department has prepared estimates of operating costs and given advice as to types of barges best suitable for various classes of traffic to many concerns. Investigations are being carried on by such interests and it is certain that prolonged delay in the development of a comprehensive common carrier canal service will influence these corpo-

rations to inaugurate a private service. The common carrier service is preferable in most cases. Few concerns desire to burden themselves with the details of a canal operation. To the majority it is an uncharted sea and demands the creation of a special transportation organization. The first cost is heavy and the investment is slow of amortization. I believe, nevertheless, that if the efforts of the State to create a dependable scheme of canal transportation through the investment of private capital in canal transportation companies is not productive of satisfying results within the near future, the inadequacy of the existing transportation organization may be relieved by the creation of private industrial lines.

GOVERNMENT CANAL OPERATIONS

EFFORTS TO COMPEL DISCONTINUANCE

At the time of submission of my annual report for the year 1919 to your Honorable Body there was pending in Congress a measure known as the "Esch-Cummins" or "Railroad" bill. Among other things one purpose of this measure was to repeal the Federal Control Act and to restore the railroad systems of the country to their private owners. Inasmuch as the Federal Government has entered the transportation business on the New York canals by virtue of authority granted by the Federal Control Act and as it was the distinct understanding of the State that the tenure of utilization of the State waterways by the Federal Government would cease coincident with the termination of Government operation of the railroads, this measure had received my most careful consideration. It had been said that some provision would be incorporated in the bill having to do with the policy of the Government toward the inland waterways of the country and I had been at some pains to make clear to the Congressional representatives of the State in Washington that nothing should be embodied in the Railroad bill permitting the Government to continue its war time activities on the New York canals subsequent to the return of the railroads to their owners. The Senators from New York and many Representatives interested themselves in the matter. Inquiry of the conference committee of both Houses having the Railroad bill in hand brought

out that there was no provision of the bill in contemplation that in any way affected the New York canals. Reassured by such information and confident that Government operation on the State waterways would be terminated by the passage of this measure no further action was taken by this department. Shortly thereafter, however, I received a copy of the Railroad bill as proposed by the Conference Committee, discovering that section 201 thereof provided that "all * * * barges * * * on the inland, canal, and coastwise waterways acquired by the United States in pursuance of * * * the Federal Control Act * * * are transferred to the Secretary of War, who shall operate * * * such transportation facilities so that the lines of inland water transportation established * * * during Federal control shall be continued * * *." The purpose of this section was clear. It was apparent that under this provision Government operations on the New York State waterways would be continued. I immediately communicated with representatives of the State in Washington urging that the Act be amended so as to specifically exclude the New York canals from its provisions. Congressman Esch, the Chairman of the House Committee on Foreign and Interstate Commerce, and Senator Cummins, the Chairman of the Senate Interstate Commerce Committee, both advised that prior to drafting section 201 of the Railroad bill they had been informed that the Government had not taken over any transportation facilities on the New York canals and were not engaged in any operation thereon. Furthermore, they were both personally opposed to such operation if it had existed and was not desired by New York State interests. The inclusion of section 201 in the Railroad bill in the form in which it was submitted to Congress unquestionably resulted from a deliberate misstatement of facts by the person or persons with whom the Conference Committee consulted. It is inconceivable that the information given the Congressional Committee was founded on ignorance and if so such ignorance of the activities of the Government by Government officials is appalling. It is my personal belief whoever imparted the information to the Conference Committee as to the inland waterway activities of the Government wilfully concealed the truth as far as the New York State Canal situation was concerned.

It was impossible in view of the importance of the major features of the Railroad bill to delay its passage in Congress pending revision of the language of section 201, therefore the bill as it was carried in the conference report was passed. Subsequently, United States Senator Wadsworth introduced a resolution, Senate Joint Resolution 161, entitled "Joint Resolution Exempt the New York State Barge Canal from the Provisions of Section 201 of H. R. 10453." This resolution read as follows:

"Resolved (by the Senate and House of Representatives of the United States of America in Congress Assembled), That Section 201 of the bill (H. R. 10453) 'to provide for the termination of Federal control of railroads and systems of transportation; to provide for the settlement of disputes between carriers and their employees; to further amend "An act to regulate commerce" approved February 4, 1887; and for other purposes,' shall not be considered as authorizing the Secretary of War to operate, or cause to be operated, for commercial purposes, any boats, barges, tugs, or other transportation facilities upon the New York State Barge Canal."

Thereafter, the Canal Board at a meeting held March 17, 1918, adopted the following resolution:

"Whereas, Under date of April 10, 1918, this Board duly adopted a resolution pledging the co-operation of the State in the plans of the Director General of Railroads to bring about a coordination of the use of the railroads and the canal system during the period of the war, to the end that the transportation of the greatest possible amount of tonnage through the canals might result; and

"Whereas, The operations of the Federal Government on the canals under the direction of the Director General of Railroads and his successor, begun in the navigation season 1918, were continued during the season of 1919; and

"Whereas, The transportation conditions created by military operations of the United States and which necessitated the use of the State canals by the Federal Government, no longer exist and the United States Railroad Administration Act, under which such canal operations were carried on, has been repealed and the railroads returned to their owners; and

"Whereas, Under the provisions of the Railroad Barge Act recently enacted by Congress, all barges, tugs and other

equipment acquired by the Federal Government under the United States Railroad Administration Act for operation on the inland waterways have been transferred to the Secretary of War so that the operation of such barges, tugs and other equipment on the inland waterways under Federal control shall be continued; and

“Whereas, According to advices received by this Board, the plans of the Secretary of War include the further use for commercial purposes on the canals of the State of the barges and other equipment heretofore acquired for such purposes, and that such operations will be conducted by the United States Engineers; and

“Whereas, It is the opinion of this Board that no emergency or other conditions exist requiring the Government to continue its operations on the canals of this State; that the said operations have in no sense tended to develop canal commerce, that during the season of 1919, the Federal barges carried freight on the canals when barges owned by citizens of this State were available for such use; that such operations resulted in unfair competition and in discrimination against privately owned barges; and that the presence of the Federal Government in the Canal transportation field is a deterrent to the investment of private capital for the formation of freight carrying companies on which the ultimate success of the canals must depend. Now, therefore, be it

“Resolved, That this Board disapproves and opposes the continuation by the Federal Government of the operation of barges, tugs and other equipment on the canals of this State for general commercial purposes; and be it

“Further resolved, That it is the sense of this Board that in justice and fairness to the State of New York, all canal equipment heretofore operated and used by the United States Railroad Administration on the New York canals, or which has been constructed or acquired for such use should be transferred to the ownership of the State of New York for charter or sale by the State to those who will operate and use such equipment in the carrying of canal freight, such transfer to be in the nature of a partial return for the furnishing by the State, at its sole cost and expense, of a system of waterways connecting the Great Lakes with seaboard, at the disposal of the Nation and particularly in part compensation for conditions which have arisen in consequence of the Government's canal operations during the seasons of 1918-1919; and be it

“Further resolved, That copies of this resolution be forwarded to the Governor and to the Legislature, with the

request that appropriate action be taken to make known to the Secretary of War and all officials of the Government having to do with such matter, the opposition of the State of New York to the further commercial use by the Government of the State canals, and requesting that all said barges, tugs and other equipment be transferred to this State, to the end that the State may take such action as may be necessary to secure their operation and use on the canals under private control and management."

Immediately following this action of the Canal Board, a concurrent resolution was passed by the Legislature, reading:

"Whereas, There has been duly presented to the Legislature a copy of resolution adopted by the Canal Board of the State at its meeting of March 17, 1920, calling the attention of this Body to the proposed continuation by the Federal Government of freight carrying operations on the State Canals, pointing out the harmful effect of the same on canal commerce, and urging that such action be taken as would lead to the withdrawal of such operations and the transfer of the Federal boating equipment to the State, such resolution reading in full as follows:

(Language same as Canal Board resolution.)

"Resolved (if the Senate concur), That it is the sense of the Legislature of the State of New York that the commercial use of New York State Canals by the Federal Government shall cease and be discontinued, to the end that the said canals shall be restored to the status which they possessed previous to the year 1918 so far as the control of the movement of freight thereon is concerned; and be it

"Further resolved, That the Legislature of the State of New York recommends and requests that all canal equipment heretofore operated and used by the United States Railroad Administration on the New York canals, or which has been constructed or acquired for such use, should be transferred to the ownership of the State of New York for charter or sale by the State to those who operate and use such equipment for the carrying of canal freight; and be it

"Further resolved, That a copy of this resolution be forwarded to the President of the United States, to the Secretary of War and to the representatives of this State in the Congress of the United States."

The Senate Committee on Interstate Commerce called a hearing on Senator Wadsworth's resolution and on April 9, 1920, in company with representatives from practically every commercial organization in the State, I appeared before the Senate Interstate Commerce Committee in Washington, urging that favorable consideration be given the resolution and arguing that Government operation on the New York canals had been a lamentable failure, was inimical to the successful development of commerce on the State waterways and prejudicial to the best interests of the people of the State of New York. The minutes of this hearing are incorporated in this report as Appendix "A." The resolution was favorably considered by the Senate Committee and passed by the United States Senate.

The Committee on Interstate and Foreign Commerce of the House called a hearing on the resolution May 20 and 22, 1920. Again the commercial interests of the State appeared in force in Washington, protesting against a continuance of government operation of a fleet of barges on the New York canals in a commercial service competitive with the citizens of the State of New York. At the hearing before the House Committee the Secretary of War vigorously opposed the resolution. Representatives of the Secretary of War painted a wonderful picture of the splendid results that would accrue to the people of New York State by the continued operation of government barges on the New York canals under the direction of the War Department. Moreover, representatives from the South interested in the development by Federal agency of the Mississippi and Warrior rivers, appeared before the committee insisting that if the United States government terminated its transportation activities on the New York canals the equipment it had constructed or had in process of construction for service on the New York waterways should be utilized on the Mississippi and Warrior rivers and should not be disposed of by the government to private interests for operation on the New York canals. The minutes of the hearing before the House Committee are incorporated in this report as Appendix "B." Congress adjourned before action was taken by the House of Representatives on Senate Joint Resolution 161 and the Federal, under government direction of the Secretary

of War, through the Inland and Coastwise Waterways Service, administered by the chief of the Army Transport Service, has operated a fleet of 95 barges on the waterways of the State during the navigation season of 1920. The equipment operated by the Federal Government is supposed to be the last word in inland waterway barge design. The power units employed cost nearly \$100,000 each. Twenty steel steamers, twin screwed, having 400 I. H. P. each and cargo capacity of 350 tons were in service. Fifty-one steel barges, 150 feet long, 20 feet wide, 12 feet deep, with a cargo capacity of 630 tons each; twenty-one concrete barges, 150 feet long, 21 feet wide, 12 feet deep, with a cargo capacity of 520 tons each, and three wooden barges of the same general dimensions were operated. The total cost of the fleet was approximately \$4,500,000.

FEDERAL MOVEMENT OF FREIGHT

The Report of the Director of Inland Waterways of the United States Railroad Administration for the year 1918 excuses the failure of government operations on the ground that the equipment to be had was obsolete and inadequate and the time permitted for the mobilization of a fleet and perfection of an operating organization was too short to permit of efficient results.

The report of the Government for the fiscal year 1919 shows a loss of \$506,807.38. The failure of operation is admitted but excused on the ground that the modern power units contracted for had not been delivered and such tow boats as were available for the movement of the new steel and concrete barges that had been delivered were inadequate.

The report of the Chief of Inland and Coastwise Waterway Service for the fiscal year 1920, comprising only 45 days of the navigation season of 1920, shows a loss of \$62,670.14. The deficit for the entire season of navigation will unquestionably exceed \$500,000. Throughout 1920 the government had in service its full complement of floating equipment, the most modern and most costly of any on the State waterways. The season's cargo capacity of the fleet if operated with reasonable efficiency would have been approximately 600,000 tons. The alleged causes for the failure of operations of 1918 and 1919 did not exist in 1920 yet the results were relatively far more disastrous. The government

barges carried 197,017 tons during the season of 1920. In my 1919 report I showed that while canal commerce increased 7 per cent. in 1918 that proportion carried by the government line decreased 2 per cent. During 1920 the government barges carried slightly less than 14 per cent. of the season's total tonnage, their proportion decreasing another 2 per cent., despite the fact the very best equipment to be had was operated by the government and traffic was available in large volume, increasing about 15 per cent. in total. A comparison of the barge activity of the government fleet with barges operated by others shows that the type of equipment characterized by the government in 1918 as "obsolete and inadequate" worked with much greater efficiency. The War Department fleet engaged almost exclusively in the through Buffalo-New York traffic, the long haul trade, yet the average miles per day made by government barges was but 24.4 miles as against the 25.7 miles per day made by independent boats. The average time per trip by government boats was 14.1 days, as against 7.9 made by the independent boats. One independent carrier having in service power units and cargo barges of the old canal type with a season capacity of about 120,000 tons carried during the year over 90,000 tons or 75 per cent. of its capacity. Government barges carried less than 30 per cent. of their capacity. Shippers have reported to the Department that government barges were as long as 75 days in transit from New York to Buffalo. Government barges with cargo valued at hundreds of thousands of dollars on which the shipper was paying interest charges laid at the Barge Canal terminal in the city of Albany for several weeks. A time was reached when shippers of flaxseed from New York dissatisfied with the abominable service of the War Department line diverted their tonnage to the independent operators. Immediately the government decreased its rate on this commodity. The former rate was fair and reasonable. It is questionable whether the decreased rate was remunerative. The loss in earnings to one carrier resulting from the destructive competitive methods of the government would have been sufficient to pay a substantial dividend on the entire capital stock of the company.

Not the least of the evils of government operations were in their effect on the commercial interests of the canal. The utter

incompetency and rank carelessness of government employees manning the barges placed the canal structures in constant jeopardy. The movement of a government fleet was a serious menace to locks, dams and bridges. Navigating the waterway with complete disregard of rules and regulations the government boats wrought havoc with the channel buoy lights; badly damaged locks time and again; were in collision frequently with other craft; were sunk here and there in the canal channel, and in one instance almost completely demolished a bridge. Reports continually reached the Department that officers and crews on government boats were intoxicated while on duty and incapable of safely performing their duties. A rehearsal of the accidents and damage caused by the incompetent and careless handling of government barges would entail more space than may be permitted in this report. Suffice it to say that had the conditions cited resulted from the operation of barges by a private company the privileges of the waterway would have been denied that company. As it was, the impression prevailed that since the War Department's Canal service was conducted through Act of Congress, the operation of the boats was outside the jurisdiction of the Superintendent of Public Works.

Government operation on the New York canals in 1918 and 1919, under the Railroad Administration, was most deficient. Government operation under the War Department in 1920 was so replete with mismanagement, inefficiency and incompetency as to defy imagination. The fiasco of government operations in 1918, 1919 and 1920 demand that there be brought about an immediate termination of Federal operations on the New York State waterways. The people of New York have been compelled to assume a large share, nearly 30 per cent., of the million or more dollars lost by the Railroad Administration and the War Department in their ridiculous attempt to conduct a business enterprise. The commercial interests of the State demand that the government withdraw from business on the New York canals and cease competing with citizens of the State in a field where the government has no moral right to continue. To that end, I urge upon my successor and your Honorable Body the imperative necessity of early and forceful action that there may be introduced and

passed in Congress legislation amendatory to the Railroad bill that will compel the immediate discontinuance of government operations on the Barge Canal.

As to what disposition shall be made of the barge equipment built by the government for service on the canals, if and when government operation is terminated by an Act of Congress, I hesitate to offer recommendation. In the judgment of most experienced and practical inland waterway transportation men these boats are unsuited to the Barge Canal and are faulty in type and design. It has been proven they are extremely expensive to operate and it is questionable whether in the hands of private interests they may be profitably operated. I am of the opinion, nevertheless, that opportunity should be given private interests to acquire the equipment by purchase, lease or charter and that the preferential and prior right of purchase, lease or charter should be given those who desire and will agree to operate the equipment on the inland waters of New York State. I therefore recommend to your Honorable Body that there be incorporated in any measure that may be introduced in Congress amendatory to the Railroad bill and terminating government operation on the New York canals a provision to this effect.

CANAL TRAFFIC BUREAU

ACTIVITIES OF TRAFFIC BUREAU

I believe no other public work in the country, unless it be the Panama canal, has received such widespread publicity as the Barge canal. Throughout the sixteen-year reconstruction period, the press, engineering periodicals and the like, had devoted much space to the waterway as a physical proposition. With the completion of the construction work it was apparent that publicity of a different character must be employed. Few shippers there were but knew a barge canal had been built and at a great cost, and fewer were there that had the least conception of how or to what extent the completed waterway could serve their transportation requirements. It was for the purpose of educating shippers to the advantages of inland waterway shipping that the commercial interests of the State advocated the

creation and succeeded in creating a Canal Traffic Bureau whose function it is to compile statistics and data relative to canals, to furnish information relative to the transportation of freight by water; in fact, to serve the same purpose in the organization as does the traffic department of a railroad in a large industry.

The activities of the Traffic Bureau are showing results. Constant solicitation has been carried on; shippers everywhere have been aided and encouraged to utilize the canal route; transportation organizations have been fostered and assisted in acquiring cargo; rates have been initiated; routes developed; old practices eliminated; new methods inaugurated; unfounded prejudices overcome; literature descriptive of the canal factually prepared and distributed throughout the country; articles explaining the value of the waterway and how it may be utilized have been furnished the press and periodicals; the interests of the waterway generally safeguarded; inimical legislation opposed; cargo acquired for shippers; cargo obtained for boats and every effort made to rehabilitate commerce on the canals. That such results have been fruitful is to be seen in the increasing commerce on the waterways and the very apparent re-awakening of interest among shippers in canal transportation.

I am of the belief, however, that much more can be accomplished with an extended traffic organization. With the addition of new carrier organizations into the canal transportation business and the development of canal commerce to large proportions, it will become necessary to broaden the sphere of activity of the Traffic Bureau and increase its personnel. Buffalo and New York are the two main primary sources of canal traffic. The territory in the central part of the State also offers a fine field of exploitation. It is a stupendous task to reach all shippers in the territory tributary to the waterway, to educate them in the new methods of canal transportation and to convince them that it is distinctly to their advantage to utilize the canal facilities.

I believe there should be established in the Buffalo, Chester and Metropolitan Districts, traffic agents whose duty it would be to canvass the shipping interests of their respective districts thoroughly and continuously, to bring to the personal attention

of shippers the facilities available for the movement of their traffic via canal, the merit of the service, and to be as constantly on the alert for prospective business as are the district representatives of competing rail lines. It must be realized that the State has embarked on a transportation enterprise of great magnitude. It must also be realized that development of commerce on the Barge canal will not be as rapid or easy of accomplishment as was the case with the original Erie canal. To-day the competition of other water routes, the competition of the motor truck on the highway and the highly organized railway competition, must be met and successfully combatted before the Barge canal will begin to transport tonnage approaching its capacity. It is imperative therefore that the canal traffic organization be as strong and efficient as its competitors.

The Traffic Bureau under its present organization has served its purpose efficiently and effectively. However I consider the title of the Chief of the Bureau, the Canal Traffic Agent, a misnomer. The Canal Traffic Agent is in fact the General Freight Agent or Traffic Manager or Traffic Director of the State Waterway System. The duties of the office are of extreme importance to the rehabilitation of canal commerce and to the efficient handling of canal business. I recommend to your Honorable Body, therefore, the wisdom and necessity of amending the Act of Legislature creating the office of Canal Traffic Agent to the extent that there will be created the office of Traffic Director and three assistants, such assistants to be located at Buffalo, Syracuse and New York City, performing their duties under the direction of the Traffic Director and all under the general supervision of the Superintendent of Public Works. Such was the plan originally conceived and advocated by the shipping interests of the State. These interests have urged upon me recently that the time is now opportune to create the nucleus of a traffic organization which, keeping pace with the development of canal commerce of future years, will ultimately become an organization of inestimable worth and service to the commerce and people of the State.

In my last Annual Report to your Honorable Body, I mentioned plans that were at that time under way to publicize the waterway and popularize its utilization through the medium of

the motion picture. A splendid film of the system portraying the principal features of the waterway, depicting actual physical and operating conditions and illustrating the excellence of the canal as a transportation medium was made and during the last year has been extensively exhibited throughout the State. Meetings of shippers and business men have been held at the following places, whereat the pictures were exhibited and the facilities of the waterway presented to those present in the greatest detail.

New York City: Harlem Board of Commerce, Bronx Board of Trade, Brooklyn Chamber of Commerce, New York Boat Owners Association, Engineers Club of New York.

Albany: General public meeting attended by State officers under auspices Albany Chamber of Commerce, Albany Society of Engineers.

Schenectady: Joint meeting Rotary Club and Chamber of Commerce.

Rome: Chamber of Commerce.

Syracuse: Joint meeting Chamber of Commerce and Allied Clubs of Syracuse.

Oswego: Public meeting under auspices of Chamber of Commerce.

Rochester: Chamber of Commerce, Rochester Ad Club.

Tonawanda and N. Tonawanda: Chamber of Commerce of the Tonawandas.

Buffalo: Joint meeting of Chamber of Commerce and Rotary Club, meeting of independent group of merchants and manufacturers.

Niagara Falls: Chamber of Commerce.

Auburn: Chamber of Commerce.

Watertown: Chamber of Commerce.

Cohoes: Cohoes Board of Trade.

Geneva: Chamber of Commerce.

Richfield Springs: Convention New York State Retail Coal Dealers Association.

Boston, Mass.: New England Industrial Traffic League Convention and Boston Chamber of Commerce.

Philadelphia: Engineers Club of Philadelphia.

Many other cities have endeavored to arrange for the exhibition of the pictures but have been unable to do so as yet and there are tentative engagements pending with interests in New York,

Poughkeepsie, Hudson, Troy, Utica, Lockport and Jamestown. Shippers in Detroit, Cleveland, Toledo and in many New England cities have invited the showing of the films but in only two instances has it been possible to accept invitation outside the State. I am convinced this method of education is the most effective that may be employed. I believe the story of the New York canals the picture relates and the "Ship by Canal" propaganda it disseminates has been productive of immeasurable good and of great benefit to the waterways. Such efforts, however, are seriously handicapped by lack of sufficient appropriation and if the campaign of education, which all canal interests urge, is to be effectively waged, your Honorable Body should place at the disposal of the Superintendent of Public Works funds in sufficient amount to permit of publicity of the widest character and educational propaganda that will reach the furthestmost limits of the territory tributary to the waterway.

Observing the great amount of interest excited by the canal among travelers on the railways and highways paralleling the channel and the lack of knowledge of the waterway apparent among these people, there have been erected and are in process of erection at strategic points throughout the State, large illuminated sign boards, plainly visible from the railway and the highway, bearing brief descriptive matter of the adjacent canal structure or channel and in many instances pertinent advertising propaganda. It was thought that if manufacturing enterprises accept this method of publicity as of value, the State with its tremendous investment in a transportation plant, could profitably emulate their example. While merely a detail in the general scheme of traffic development, this feature is mentioned in order that it may be known no possible means of bringing the facilities of the waterway to the attention of the public have been overlooked.

The Traffic Bureau has given material aid to the Commission opposing the St. Lawrence River Project; has participated in litigation instituted by the department before the Public Service Commission and is co-operating with commercial interests in a matter involving preferential rail rates that militate against the development of canal traffic, treated with in another section of this

report. The introduction of modern methods in statistical tabulation and the development of a harbor master organization at all ports, such harbor masters acting somewhat as local freight agents of the department, has permitted of the compilation of statistics in an intelligent and comprehensive manner. The availability of statistics of this character has proven of much aid to those seeking information relative to the canals or proposing the formation of transportation companies.

CANAL FREIGHT RATES

Undoubtedly some harm resulted to the waterway because of the abnormal conditions obtaining during the 1920 navigation season. Many shippers who in previous years had been loyal and steadfast patrons of the water route suffered from this condition and naturally considerable dissatisfaction and some ill will was created. Heretofore, canal carriers have been compelled to seek cargo and rates were made sufficiently lower than the competing rail basis to furnish shippers an incentive to utilize the canal service. With the approach of the opening of navigation early in the spring a large number of shippers entered the market and sought to charter boats. Except during the year 1918, when the Federal Government took over the majority of the barges at a rate of \$11 per day, canal charters have usually been made on a tonnage basis. This year the outlook to shippers was not encouraging. An acute car shortage existed and an increase in railroad freight rates was impending. Competition for barges became very keen and the law of supply and demand controlling, rates were made on a per diem basis that reached the exorbitant figure of \$25 per day for barges of the old 240-ton type. The individual boatmen being in the majority and sensing the fact that their day of activity was each year drawing nearer a close, took advantage of the situation. Except in the case of the common carrier companies, very few rates were made on a per ton basis. The per diem basis ruled and the cost per ton resulting from this practice was much greater than the per ton rate of previous years on the same commodities between the same points of origin or destination.

Experience had been had with the per diem charter practice in 1918. It was found to have operated against the efficiency of canal service and I endeavored to eliminate it this year. The scarcity of boats, however, and the possibility that shippers might have to rely to a very great extent on the waterway for their transportation requirements, influenced them to disregard my advice. The market having been established, all were compelled to accede to the exorbitant per diem charter rate. I have always opposed any attempt to enact legislation, either State or Federal, that would place port-to-port water traffic subject to the jurisdiction of a regulatory body. I have contended that natural competition is a sufficient controlling influence on water rates and that any other regulatory influence would destroy competition. With conditions such as arose during the 1920 season of navigation, I am inclined to the belief that some influence other than competition must be brought to bear to establish maximum canal rates at least. I am not in sympathy with giving such authority to the Public Service Commission, as I believe the regulatory power should rest only with some authority intimately in touch with canal transportation conditions. I believe, if and when my recommendations as to the expansion of the Canal Traffic Bureau is accomplished, such should be the location of a canal rate regulating authority.

A review of the canal rate structure, as reflected in class rates, shows that the present day situation is distinctly favorable to the development of canal commerce and carriers. When a portion of the waterway was opened to traffic in 1916, it seemed to be the general opinion that a 25 per cent. differential would be sufficient to attract commerce. Subsequently, there have been three successive railroad freight rate advances; the first of 15 per cent., another of 25 per cent. and a third of 40 per cent. Canal operating costs have unquestionably advanced, but not to the extent that absorbs the increase in rates, so that it is believed at the present time canal carriers will find it possible and profitable to render a service on a basis of rates differentiating as much as 40 per cent. or perhaps 50 per cent. under the class rates applying via rail. Hereafter there are set down tables of comparative canal and rail rates for 1916 and 1920, between New York and Buffalo:

	CLASSES					
	1	2	3	4	5	6
	(In cents per 100 lbs.)					
Rail in 1916	41.3	35	29.5	20.1	16.9	13.8
Canal in 1916	35	30	25	17	15	12.5
Differential in 1916.....	06.3	05	04.5	03.1	01.9	01.3
Rail in 1920	84	73	59.5	40.5	34.5	28
Canal in 1920	50	44	36.5	25	30.5	17
Differential in 1920	34	29	23	15.5	14	11

From this comparative statement, it will be observed that while railroad rates in four years have advanced

CLASSES	1	2	3	4	5	6
	27.7	24	18.5	12.4	12.1	09.7

canal rates have advanced only

CLASSES	1	2	3	4	5	6
	15	14	11.5	08	05.5	04.5

The comparison shows the saving in canal transportation under rail has increased over 500 per cent., and railroad rates have increased over 100 per cent., but canal rates have been advanced only about 50 per cent.

I consider the present basis of canal class rates eminently fair to both shipper and carrier and I believe local class rates should be stabilized on the existing basis. However, it is my information that certain interests are endeavoring to manipulate the application of the recent 40 per cent. railroad freight rate increase to tariffs now in effect naming rates on classes and commodities via canal and lake and rail-canal-lake from eastern territory to the west, so that while the 40 per cent. increase will apply to the rail rates, the canal and lake rates will be made by deducting the differentials that have been in effect from the increased rail rates.

In other words, for the purpose of maintaining an artificial relationship between all-water and all-rail rates, the water rates will be increased in excess of the increase that would result by the application of the 40 per cent. advance. The all-rail and all-water rates New York to Chicago prior to the 40 per cent. advance compared as follows:

	CLASSES	1	2	3	4	5	6
Via rail		1.125	.99	.75	.525	.45	.375
Via canal .....		.925	.83	.63	.445	.37	.315
Differential .....		.20	.16	.12	.08	.08	.06

Under the 40 per cent. advance, these rates would be increased in the following extent:

	CLASSES	1	2	3	4	5	6
Via rail.....		1.575	1.385	1.05	.735	.63	.525
Via water		1.295	1.16	.83	.625	.52	.44
Differential . . . . .		.26	.225	.17	.11	.09	.085

It will be seen the actual saving under the rail rates to the shipper would have been greater via water after the 40 per cent. advance than prior thereto, but it is understood rail interests are not disposed to permit such result. The lake lines interchanging traffic with canal carriers also participate in the movement of traffic via rail and lake. In rail and lake traffic, lake lines become subject to the jurisdiction of the Interstate Commerce Commission and the Commission has said in substance that differentials existing prior to the 40 per cent. advance should be preserved. The rail and lake differential is exactly 50 per cent. less than the canal and lake differential, and the preservation of the rail and lake differential, while the canal and lake differential is broadened, would operate to the advantage of the all-water route. Therefore, it is understood that because the interest of the lake carriers in rail and lake traffic is keener than in the canal and lake traffic, they will insist that canal and lake rates be established by the deduction of the former differentials from the increased rail basis, thereby making canal and lake rates New York to Chicago as follows:

CLASSES	1	2	3	4	5	6
	1.375	1.225	.93	.655	.55	.465

Thus the all-water rates are increased nearly 50 per cent., while rail rates advance only 40 per cent. and water borne commerce is compelled to assume a greater charge than costs of operation and value of service warrant. In the interchange of traffic with canal lines, lake carriers do not come within the jurisdiction of the Interstate Commerce Commission. It is therefore

discretionary with lake and canal carriers to establish joint rates on any basis that satisfies their mutual interests and without any regard as to what the all-rail or rail and water rate may be. The present and prospective basis of canal-lake rates are extremely high. The New York-Chicago all-water rate has advanced from 36 cents per cwt. first-class in 1915 to \$1.125 in 1920, an advance of over 300 per cent. All-rail rates on the other hand have increased less than 50 per cent. of the water advance and the continuance of such practices will inevitably kill off water borne commerce between the canals and Great Lakes. I am unalterably opposed to the plan of increasing canal-lake rates on the basis defined hereinbefore and shall call upon the commercial interests of the State to co-operate in a movement to oppose the scheme.

Still another rate problem is presented the State for solution if its efforts to build up canal traffic are to be of any avail.

Elsewhere in this report reference has been made to the disappointing grain traffic of the year and the apparent causes of the comparatively light canal grain tonnage. A rate situation is here involved that may warrant the initiating by the State of litigation before the Interstate Commerce Commission or the intervention of the State in litigation that may be initiated by other interests.

The condition militating against the maximum development of grain tonnage through the State waterway resulted from a readjustment of rates from Missouri River territory to Gulf ports. It presents many complications and interests of the State in its canal investment and in the prosperity of the ports of Buffalo and New York are not alone concerned. The ports of Boston, Baltimore and Philadelphia have a vital interest in the question and I believe may be relied upon to co-operate with New York interests in any corrective measure that may be undertaken. Prior to the 5 per cent. railroad freight rate advance of 1915, rail rates on grain to the gulf from western points bore a distinct relation to rates to the Atlantic seaboard, such rates reflecting the then existing difference in ocean rates from Gulf ports to Europe as against the Atlantic seaboard. Subsequent rate increases disrupted this relationship and during the tenure of the Railroad Administration an effort was made to readjust the

rates. A full readjustment, however, was not accomplished so that the application of the 40 per cent. increase becoming effective August 26, 1920, further aggravated an already preferential basis of rail rates to Gulf ports, with the result that this preferential rate basis, coupled with an ocean rate situation from Gulf ports to Europe, that compared favorably with pre-war rates, operated to attract the bulk of domestic exportable grain through the Gulf ports. The movement of wheat from Missouri River territory through the rail and lake route to Buffalo was extremely light because the rates favored the routing of the grain to the Gulf and this was despite the favorable adjustment Buffalo and New York grain interests had succeeded in accomplishing, whereby the rates applying at and east from Buffalo were increased only 25 per cent., while the Chicago re-shipping rates were raised 40 per cent.

The State has committed itself to an expenditure of several million dollars for the construction of canal grain elevators at Oswego and New York. It is manifest these structures considered so vitally important to the restoration of the grain trade to the waterway, will be of little utility if a condition such as obtained during the 1920 season of navigation is permitted to divert the grain traffic from the Atlantic ports. Neither may it be expected that the growth of canal carriers will be rapid or satisfactory if grain cargo is not to be had at the western termini. The situation is therefore of extreme importance. Either the rates to the Gulf must be increased or the rates to upper lake ports decreased.

I propose to give this question the closest attention and will employ every facility at my command to protect the best interests of the waterway and the grain commerce of the State.

Much remains to be done in building up a line of canal rates that will properly cover the territory and traffic tributary to the waterway. To a great extent such rates will depend on the development of canal carriers. Already there is a sentiment among shippers located in cities off the line of the waterway for the establishment of joint rail and canal rates that will permit them to enjoy the benefits of the cheap water route and every effort is being put forth by the Department to institute rates that will accommodate such traffic.

POSSIBILITIES OF FUTURE BUSINESS

The outlook for the future is bright. Sources of new traffic are constantly being developed and business that in former years offered attractive tonnage, but of late has dwindled to insignificant proportions, is being revived. The heaviest item of comparatively new traffic is in import flaxseed. During the 1920 season 81,465 tons were carried from New York to Buffalo and the West, and every indication is present that the tonnage in this commodity will increase in future years. The completion of the canal terminal grain elevator at New York will give great impetus to the movement of import grains. In past years large quantities of California barley was handled by the canal in westbound movement. It is believed this business may be restored when adequate facilities for its handling become available. Import corn also offers possibilities. Lumber and forest products from the Pacific coast will become available for westbound canal movement with the resumption of steamship service between the Atlantic and Pacific through the Panal Canal. Many shippers have conferred with the Department with reference to canal facilities for this class of traffic. Pulpwood shippers have shown great interest in the canal route. Already a large corporation owning huge tracts of timber land in Canada has established a pulpwood distributing terminal at Oswego, and only await the inauguration of a dependable canal service before they will utilize the canal route from Oswego. Maine interests are also pursuing investigations and are in a position to furnish many thousands of tons of pulpwood cargo when canal transportation conditions are propitious. Industrial development along the line of the waterway opens up unlimited possibilities. The location of an internationally famous rubber manufacturing concern at Buffalo presents the possibility of carrying crude rubber and other import raw materials. A large power development in the lower Mohawk territory will consume 75,000 or more tons of coal each year which it is planned to bring in via canal.

Motor vehicle manufacturing interests in the central western territory are alive to the possibilities offered by the canals for the movement of motor vehicles from Buffalo, either on their own wheels or boxed for export. The Department has been at great

pains to bring the canal facilities to the attention of such shippers. At one time during the summer an automobile manufacturer located at Syracuse was unable to obtain automobile bodies from a manufacturer in Buffalo because of the car shortage. Two flat deck barges were acquired and approximately 100 fully finished, glassed, set up sedan bodies were taken through the canal from Buffalo to Syracuse and delivered without a scratch in two days' time.

Evidence has been had during the last season of navigation that the waterway is not an exclusive carrier of low grade or coarse freights. In one instance, four specially constructed barges carrying a cargo of live eels, originating at Quebec, entered the canal at Oswego and were speedily transported to the New York market. This was a most unusual experiment, but the success of the venture has prompted the promoter to enter into arrangements for the building of additional boats and it is said the traffic will be regularly carried next year. Many barge loads of perishable commodities such as potatoes, apples and onions, have been handled and I am of the firm conviction the development of a distinctive type of barge, perhaps a refrigerated barge, will permit the movement of large quantities of this class of traffic.

There is no commodity produced or consumed throughout the territory traversed or connected by the waterway that is not potential canal freight. Everything that is transported by rail lines can be safely and economically carried in canal service. A tremendous volume of tonnage awaits the inauguration of a high class transportation service on the waterway and, with the creation of such service, the success of the undertaking will be assured.

INDUSTRIAL DEVELOPMENT

There has been little change in the situation related in my report to your Honorable Body of 1919, relative to industrial development along the line of the Canal System.

Those projects mentioned in my preceding report are well under way and here and there throughout the State new enterprises are being born. Foremost of these is the plant of the Adirondack Power Company, under erection near Amsterdam. Under permit issued by my department this corporation dredged

a harbor from the main canal channel and, in connection with the construction of the power plant, it is understood wharves be built and unloading machinery installed, enabling the corporation to take delivery of its fuel supply by canal. At Oswego the Cornwall Terminal Co., Ltd., have acquired extensive waterfront holdings and have erected a pulpwood loading and unloading terminal. It is understood this company is allied with the Great Lake steamship and Canadian timber interests and a canal tunnel of some magnitude is expected to develop from their operations. Action by the Federal Water Power Board releasing power created by the government dam in the Hudson River at Fort Randall has served to expedite the preliminary work on the large turbine plant to be erected by the Fordson Company of Detroit and, too, the waterway will undoubtedly benefit by a large tonnage canal created.

Labor conditions and the high cost of building materials have operated to restrict in some measure other industrial activities in the canal territory but with the restoration of normal conditions it is reasonable to assume the splendid facilities afforded by the waterway and the territory that has been made available for industrial development by the relocation of the canal channel will influence the location of many industrial establishments along the route.

RAIL-CANAL INTERCHANGE FACILITIES

Information is continued in my annual report of 1919 relative to the action I had initiated before the Public Service Commission to compel the New York Central Railroad Company to recognize the provisions of the Public Service Commissions Law as to the interchange of traffic between rail and water lines and the construction and operation of interchange tracks between canal terminals and rail lines. In the Buffalo case the Commission decided in favor of the State, the order of the Commission reading as follows:

"That the New York Central Railroad Company provide a transportation service between the Erie Basin Barge Canal public terminal in the City of Buffalo, and shippers located on its tracks, in the City of Buffalo, N. Y., between the Erie Basin Barge Canal public terminal in the City of Buffalo and shippers located on its tracks at any other point within the State of New York."

the State of New York and between the Erie Basin Barge Canal public terminal in the City of Buffalo, and shippers located at any other point in the State of New York on the tracks of any other Railroad Company, with which the New York Central Railroad Company can interchange traffic.

"That such transportation service shall include the furnishing of necessary rolling stock by the New York Central Railroad Company, for all traffic moving from the Erie Basin Barge Canal public terminal, and from all shippers located on its tracks in the City of Buffalo or any other point on its tracks within the State of New York to the Erie Basin Barge Canal public terminal, the operation by the New York Central Railroad Company upon the railroad tracks within such Erie Basin Barge Canal public terminal by such railroads' own motive power and servants, all rolling stock going to or coming from said Erie Basin Barge Canal public terminal; and the spotting, placing and removing of rolling stock therein.

"That the New York Central Railroad Company shall within thirty days after the service of this order file tariffs with the Commission for all service into and out of said terminal, and over its connecting lines."

The carrier subsequently petitioned the Commission for a rehearing which was denied. The status of the matter at the present time is that the carrier disputes the authority of the Commission and apparently has refused to comply with the Commission's order. I intend to prosecute this matter vigorously as a most important principle is involved and shall petition the Commission to apply for a court enforcement order in the event future developments indicate the carrier is disinclined to respect the order of the Commission.

Splendid progress is being made in the development of interchange facilities at canal terminals. At Rochester, agreement has been reached with the Lehigh Valley Railroad for physical connection between the canal terminal and the tracks of that carrier and at Syracuse work is in progress on a connection with the Delaware, Lackawanna and Western Railroad. At Utica, some obstacles to the carrying out of plans proposed still intervene but, if conferences arranged for do not clear up the situation, I propose to take this issue to the Public Service Commission for adjudication. I am hopeful, however, an amicable solution may be reached on the Utica situation.

With the completion of the interchange facilities at Rochester and Syracuse, the points where traffic may be interchanged between canal and rail lines will be as follows:

Ports	Carriers
Buffalo, Erie Basin	New York Central Railroad Co.
Rochester	Lehigh Valley Railroad Co.
Syracuse	Delaware, Lackawanna & Western R. R. Co.
Schenectady	Delaware & Hudson Railroad Co.
Troy	New York Central Railroad Co.
	Boston & Maine Railroad Co.
Albany	Delaware & Hudson Railroad Co.
Oswego	Delaware, Lackawanna & Western R. R. Co.

Also on the Hudson river, south of Albany, interchange facilities are maintained by the Boston and Albany Railroad at Hudson, N. Y., and the Central New England Railroad, at Beacon, N. Y.

STATE CANAL TOWING.

RESULT OF SEASON'S OPERATIONS

The peculiar status of the canal transportation organization and the effect of the progress of the construction of the improved canal system on that organization has influenced your Honorable Body since 1914 to annually make appropriation in varying amounts for the furnishing of towing facilities on the canals. Reference to the census of boats available for the carrying of freight on the waterway, to be found elsewhere in this report, reveals that fully 75 per cent. of existing equipment is owned and operated by individuals and the balance by industries or common carrier organizations. Very few of the individual operators or industries and but two transportation corporations own and operate tow boats. Therefore each year since 1914,

except during the season of 1918, when the Federal government was in full control of the transportation activities on the waterway, the State has been confronted with the alternative of providing towing facilities that permits the majority of available canal craft to engage in trade, or of declining to do so, with the certain knowledge such declination would deprive the waterway of the major portion of its floating plant; would deny many shippers the advantages of canal transportation, and result in the waterway remaining in comparative disuse. The large commercial organizations of the Metropolis, as well as of the principal cities elsewhere in the State and shipping interests generally, have been unanimous in their approval of the course the State has followed. These interests recognize that commerce on the State waterways must be fostered and encouraged in every conceivable manner and they have demanded that the State be not remiss or derelict in the obligation to restore canal-borne commerce to its one-time splendid proportions.

In my last report to your Honorable Body, I expressed my disapproval of the principle of State towing. I am wholly out of sympathy with any proposal that has for its effect the subsidizing of canal commerce beyond the annual maintenance and operating charges of the system. I believe if the water-borne commerce of the State is to be builded on a dependable basis, its development should come from permanent and not from artificial sources. While my views have undergone no change and I am unalterably opposed to State towing as a permanent policy, I can conceive of no other means at present whereby canal traffic can be kept alive or nurtured to the point where private capital may see its way clear to step in and relieve the State of the duty to furnish towing facilities and it was this thought that influenced my approval of the towing appropriation of the last legislative session. The issue this year was clear and there was but one way out of the dilemma.

As related elsewhere in this report, early in the year many shippers contemplated the charter of a large number of the individually owned boats for service throughout the season. Prior to entering into these charters the shippers, among whom were numbered many of the largest industrial enterprises in the State,

sought information of my department as to whether or not a State towing service would be available to them. My investigations and knowledge of the situation had convinced me carriers owning and operating their own motive power would be incapable of meeting the requirements of these industries and it was certain the providing of towing facilities by the State for the movement of the chartered individually owned boats would offer no competition to transportation corporations operating tow-boats, inasmuch as such corporations were known to have contracted freight to practically the limit of their season's capacity. Therefore, no evil would be attached to the State service, no hardships would be imposed on any individual and the competitive relations of canal carrying interests would not be affected in any way. It also appeared certain that only beneficial results would follow the furnishing of towing service by the State. Nevertheless, I declined to assume the initiative in requesting a towing appropriation, stating that if the inadequacies of the canal transportation organization and the demands of commerce necessitated the furnishing of tow-boats by the State, request for the service and the necessary appropriation should come from those directly concerned. Practically every commercial organization and large shipper on the line of the canal joined in the movement to acquire State towing and as a result of the demands of these interests your Honorable Body enacted Chapter 370 of the Laws of 1920, appropriating the sum of \$150,000 to be utilized in furnishing towing facilities on the Barge Canal. Unfortunately the appropriation did not become available until almost the opening of navigation and but a brief time was had in which to perfect an organization and acquire towing tugs. Eighteen tug boats were chartered and a service inaugurated. I am frank to admit the service had its defects and that shippers were not entirely satisfied with the results. On the whole, however, as good a service as was possible under the conditions and with the facilities available was rendered. Many factors contributed to the difficulty of performing a service of maximum efficiency, most of which were beyond the control of the department. I have hereinbefore touched upon the evils resulting from the charter of barges on a per diem basis and this practice had a serious effect on the towing service. It was my intention to

operate State towing tugs 24 hours daily. However many boatmen working under a charter stipulating a certain rate of pay per boat per day without specific reference to the number of hours per day the barge should operate refused to navigate after nightfall and it became necessary to place the towing service on a 12-hour day basis. This, of course, practically doubled the time barges were in transit and was the cause of some dissatisfaction among shippers. I have also mentioned previously in this report the suspension of regulations that prohibited the entrance of craft of a certain type into canal waters. The appearance of boats of the New York Harbor type, flat deck scows and the like, not equipped with steering apparatus, resulting from the suspension of the regulation, presented a problem to the towing service. The tugs that were available and chartered by the department for the most part were small and not highly powered. While adequate for towing barges of the old canal type, when it came to the movement of larger barges they were utterly incapable of performing in an efficient manner. Six of the old type barges comprised a normal tow for one tug, while but two of the larger type boats could be safely handled by one tug boat and then only at an extremely slow rate of speed.

Labor conditions, furthermore, were distinctly unfavorable. Difficulty was experienced in obtaining competent and trustworthy crews and in many instances tug boats were out of service for a time, short some member of the crew while there were barges awaiting movement elsewhere. A fuel supply presented another problem. Time and again tug boats with their tows were detained because coal was not to be had. The State was not the only sufferer in this respect, for other canal carriers as well as industries experienced the same difficulty.

Moreover, the conditions cited operated to appreciably increase the cost of maintaining the service. An appropriation of \$200,000 was originally requested by shipping interests. The amount requested was predicated on the probable cost of tugs to be chartered, fuel, and other items and was based on experience of previous years. Your Honorable Body decreased the requested appropriation \$50,000 and it developed such amount was

insufficient. Traffic developed in far greater volume than was anticipated and a larger number of tugs were required. The charter cost of tugs was also found to be much higher than in preceding years. Wages paid tug crews advanced sharply, in fact, nearly 25 per cent. Fuel that cost \$6.50 per ton in 1919 could not be obtained at a price less than \$10 per ton in 1920, and as high as \$16.50 per ton was paid in an emergency. So that, about the first of October the funds in my hands were seriously depleted and insufficient to continue the towing service until the close of navigation. I accordingly made request of your Honorable Body during the extraordinary session for an additional \$100,000 appropriation of which you granted \$75,000. My request for \$100,000 additional was made only after the most careful consideration of the requirements of the service and I was confident any lesser appropriation would not suffice. My judgment has proven correct for the season was closed with a deficit in the towing appropriation of \$13,000. This sum is due tow-boat owners for services of tugs and for fuel, supplies, and labor necessary in the conduct of the service. It represents moneys justly due citizens of the State and should be paid to them at the earliest possible moment. To care for this obligation, I have included the item as a deficiency appropriation in the annual budget of my department and urge that favorable consideration be accorded it.

I am satisfied, in the light of the season's experience, the appropriation of \$225,000 was justified. The department records show 1,325 barges were towed by the State tugs and approximately 175,000 tons of freight were carried. The revenue derived from the service aggregated \$70,000 so that inclusive of the deficit of \$13,000 the actual subsidy was \$168,000, or only 10 per cent. greater than previous years. Commerce on the Erie division of the system, to which the towing service was confined, increased 5.8 per cent. over the 1919 figure. The business enabled to move via the canals because of the facilities made available by the State towing service comprised the major portion of the increased Erie division tonnage and, without the State towing service this year, the record would have been less encouraging.

RECOMMENDATION FOR FUTURE

What policy should be followed by the State in the future with respect to subsidizing a towing service is a perplexing problem. Certainly the State cannot indefinitely continue the practice and equally as certain it is that the continuation of the practice thwarts the development of private towing lines. It appears a harsh decision must be reached. All interests are agreed that the maximum of success in the rehabilitation of canal commerce may only be achieved through the formation of strongly financed and well-equipped transportation corporations. No doubt exists in the minds of anyone that the day of the individual operator has passed. The question presents why prolong the regime of the individual boatmen by providing a towing service that alone enables them to continue in business? Decision must therefore be made whether the individual boatmen shall be finally wiped out as a factor in the canal transportation business, the equipment they control permitted to trade where it will and the business on the canals rebuilt from the very bottom, or whether from year to year appropriation shall be made to furnish means whereby these men may earn a living and serve the shippers of the State. Perhaps a solution is offered by the recent increased railroad freight rates. There should be no just opposition to the State furnishing a towing service at a rate that yields a revenue commensurate with the cost of operating the service or possibly at a profit. An opportunity may now exist to accomplish such a result. The State towing rates heretofore have been abnormally low, for the reason it was understood boatmen could afford to pay no more. Now that rail rates have so sharply advanced presumably canal rates will increase in the same ratio and the State in its towing service might be justified in charging a remunerative towing rate.

I have striven to persuade towing companies to enter the towing business on the State waterways. I have as yet no definite assurance from any source that a service will be inaugurated by private interests next year, although a few companies have exhibited interest in the matter. I urge upon my successor and your Honorable Body, therefore, the necessity of making known to the shipping public at as early a date in the new year as possible your definite decision on this question, so that those who may be

preparing plans for the utilization of the canals next season, will not be kept in suspense relative the State's policy and may make provision for their towing requirements if the State does not again undertake to perform the service.

ST. LAWRENCE CANAL PROJECT

Reference was made in my report to your Honorable Body for the year 1919 to a movement that had been initiated in the 65th Congress, fostered by western interests, to conduct an investigation as to what improvements were necessary to make the St. Lawrence River navigable to ocean going vessels between Lake Ontario and Montreal.

Throughout the year 1919, I had been tireless in my effort to excite the commercial and waterway interests of this State to a true realization of the futility and wastefulness of this project. I had opposed the plan at every point, contending that it was commercially futile, economically unsound and geographically absurd. I had shown that the concurrence of the Government of the United States in any scheme to canalize the St. Lawrence River would involve the expenditure by this government of millions of dollars. I pointed out to the shippers of the State that the people of New York State would be compelled to assume at least a third of the cost of construction apportioned to this country, and they would thereby largely contribute to the cost of construction of a waterway that would be competitive with the Barge Canal System. I maintained the New York canals were fully capable of caring for the commerce of the West and that the maximum utilization of the New York waterways would retain for domestic ports the commerce to which they were rightfully entitled and incidentally relieve the transportation situation of which Western interests complained and which was said to be the basis of their advocacy for an outlet to the sea through the St. Lawrence. The strength of the organization of the Western and Canadian interests advocating the scheme, and the weakness of the individual effort characterizing the opposition of New York, convinced me of the imperative necessity of concerted and forceful action on the part of the State, if its tremendous waterway investment was to be protected and its commerce conserved,

I therefore suggested the creation of an official commission to represent the State at hearings then being held throughout the country by the International Joint Commission and, as a result of this suggestion, such a Commission was created by an Act of Legislature and its members named by the Governor. The personnel of the Commission was as follows:

Senator L. W. H. Gibbs, Chairman; Senator James J. Walker; Assemblyman S. L. Adler; Assemblyman Charles D. Donohue; the State Engineer and Surveyor; the Superintendent of Public Works; M. Murray Hulberd, Commissioner of Docks, City of New York; H. W. Hill, President, New York State Waterways Association.

This Commission has attended all hearings held in the State by the International Joint Commission and has presented data and evidence to the International Joint Commission, supporting its opposition to the St. Lawrence proposal. Its members have attended waterway conventions elsewhere in the country, combatting the propaganda of the St. Lawrence advocates and have succeeded in crystallizing sentiment throughout the Atlantic Seaboard in opposition to the proposal. The appropriation made to carry out the work of the Commission, however, is inadequate. When it is known that the fourteen western states urging the construction of a ship canal through the St. Lawrence have contributed to a fund of over \$100,000 to advance the project, it will be seen that the \$5,000 appropriation made by New York State, which has more at stake than any other single state, is manifestly insufficient. Unquestionably, the St. Lawrence scheme is one of the most important matters confronting New York State to-day. The successful consummation of the plan will have a potent effect on the development of commerce and carriers on the Barge Canal. While I have no fear of the final outcome of the scheme, believing it is destined to be defeated in Congress, the State of New York must not be lulled into any false sense of security. The most vigorous and forceful opposition must be presented up to the very moment of the defeat of the plan and, to that end, additional appropriation enabling the Commission to fulfill its functions in an effective manner should be made by your Honorable Body.

The commercial interests, as well as the Congressional representatives and chief executives of every Atlantic seaboard and Gulf State should learn the truths of the St. Lawrence dream as New York interests understand them. Representatives of the State should personally confer with these interests for the purpose of convincing them by the presentation of indisputable facts that the proposal to make the St. Lawrence River above Montreal navigable to ocean-going ships is a chimera and that such funds as may be available in this country for the improvement of waterways should be expended wholly and solely on the modernizing and improvement of domestic canals, rivers and harbors.

NAVIGATION

CONDITIONS PREVAILING IN 1920

Navigation on the canal system was opened for the season on the following dates:

On the Champlain Canal and on the Cayuga and Seneca Canal at twelve o'clock noon of May 1st. The Erie Canal route from Troy to Schenectady was opened to commerce at twelve o'clock noon of May 1st, and the passage to Oswego via the Erie Canal to Three River Point, and thence via the Oswego Canal, was made available at twelve o'clock noon of May 5th. The Erie Canal for its entire length from Troy to Buffalo was opened to navigation at twelve o'clock noon of May 10th.

In addition to the improved channel, the following portions of the unimproved canal were made ready for use on May 15th: In the city of Rochester, from Pittsford to Lock 66, accommodating traffic from the east, and between the South Greece junction lock and the Lexington Avenue dam, for traffic from the west; the old channel between Waterford and the Hudson river at Albany, and all of the old canal in the city of Syracuse, including the unimproved Oswego branch northerly to Mud Lock. The portion of the old canal between Buffalo and Tonawanda also was retained in commission.

While the date for the official closing for the season of all canals had been fixed by public notice, for midnight of November 27th, it was December 13th before the last east-bound barges

laden with freight passed out of the canal channel at Troy, and to accommodate certain tugs and craft bound for Buffalo, the channel was retained in use on the Western Division until December 24th.

The maintenance of navigable conditions in the waterways at so late a date was most unusual. The record for the past year as to the number of days in which the waterways were available has not been exceeded in any previous season. It can by no means be regarded as a precedent. The extension of the navigation period was made possible only by the existence of favorable weather conditions. Little or no snow had fallen in the canal zone during the month, and the temperature was not sufficiently low to cause the formation of ice of any substantial thickness, excepting in the summit levels where the difficulty was overcome.

It has been the aim of the Department to maintain the canal and its structures in condition for commercial use to as late a date as may be physically possible, but the experience had in many years shows that, excepting in a few isolated instances, navigation on the State's waterways is dangerous after December 1st.

The opening of the Erie or main channel prior to the date on which it actually took place would have been of no avail, inasmuch as the waters of Lake Erie and the entrance at Buffalo were blocked by ice up to and including May 12th.

During the entire season perfect conditions almost constantly prevailed for the passage of boats. The detentions reported were few in number and brief in duration. On May 19th a collision of two Federal-owned vessels with the upper gates of Lock No. 3, at Waterford, damaged the structure to such extent as to cause a delay of 24 hours for the making of the necessary repairs; and on July 11th the breaking of the portal castings at Lock No. 17, at Little Falls, rendered the lock inoperative for practically the same period. The only other delays experienced by traffic were due to circumstances beyond the control of the Department. The excessive rains occurring about October 1st in the eastern part of the State occasioned such high water in the canalized Mohawk river and in the Hudson river in the vicinity of Mechanicville,

as to hinder to some degree the movement of boats on October 1st, 2d and 3d. On November 23d and 24th similar conditions existed, and traffic on the Mohawk river was partially suspended on those days.

For the first time the terminal harbor at Rochester was in use. By the construction of the dam at Court street the pool in the Genesee river was created, making it possible for boats to reach the terminal dock provided in that city.

CHANNEL LIGHTS AND BUOYS

During the past year nearly 100 additional channel lights were installed for the protection and guidance of navigation, making the total at present in place about 1,700. In the performance of this work the suggestions made by canal users were heeded, and where actual experience had shown the need of further equipment, the same was promptly supplied.

It is believed that the buoy system at present in existence on the canals is the most nearly perfect of its kind in the United States. With so great a portion of the route lying in canalized waterways, the efficient maintenance of an adequate system of channel markers is of the highest importance, and this branch of the Department's work has been given the most serious consideration by me. Realizing that however perfect the plant, its value would be impaired by careless or incompetent operation, I found it necessary to reorganize the entire buoy light tending service. Thirty-one areas were constituted, each averaging 10 miles in length. The buoy lights on each area were placed under the charge of a single employee, with the duty of patrolling his section daily and keeping in perfect condition each light under his care. In the making up of this force at the beginning of the 1920 season, I abandoned the practice theretofore in force of a haphazard selection of men from localities adjacent to the buoys to be cared for. With the approval of the Civil Service Commission the positions were placed in the competitive schedule of the civil service, and appointments made from the eligible lists established after open competitive examination. A motor boat was furnished each man, to be used solely in the performance of his duties.

The plan adopted has shown excellent results. The type of young men who are now in this service promises to the State conscientious attention to the work, and, as I believe, the most serious problem connected with this important branch of canal administration has been solved.

CANAL TERMINALS

During the past year, within the amount available for the purpose, splendid progress was made toward bringing the canal terminals to a state of completion. With few exceptions, the work remaining to be done has to do with the matter of equipment. Canal traffic had at its disposal splendid facilities for the handling of freight.

LOCATION AND EQUIPMENT OF NEW YORK CITY TERMINALS

At Piers 5 and 6, East River

Two piers with adjacent slips are available for use. On Pier 6 is situated a warehouse of modern type, 450 feet long and 50 feet wide, with a headhouse immediately adjoining, two stories in height, containing the New York city offices of the canal officials. On both sides of the warehouse, electric wharf cranes are in place, being especially designed for the transfer of heavy freight between the house and the boats. In addition, both piers are supplied with Byers auto cranes, tier lift trucks, freight handling trailers and trucks and other miscellaneous devices.

Pier No. 5 is an uncovered structure, 570 feet long and 70 feet wide. At all times during the year, the capacity of the terminal has been used to the full so far as the dockage of boats is concerned, and a large amount of freight has been received and shipped.

At West 53d Street, North River, Borough of Manhattan

This pier has a length of 700 feet and a width of 90 feet and is equipped with a warehouse 260 feet long by 50 feet wide. A headhouse for office purposes has also been erected some distance from the freight building. The whole structure has practically been completed and was put to some use during the season. A

small amount of work still remains to be done covering the pavement of a portion of the pier and the installation of heating and plumbing systems. Contracts for these improvements are under way.

At 138th Street, Mott Haven, in the Borough of The Bronx

At the present time, besides the dock structure, the equipment at this terminal consists of a brick building adjacent to the street and is available for the storage of freight. Some use already has been made of it. Contract for the construction of a permanent freighthouse has been awarded and the work is now in progress.

At the foot of North Jane Street, Long Island City, in the Borough of Queens

The dock and warehouse have been fully completed and were placed at the disposal of commerce early in the year. While traffic availed itself of the facilities offered to some extent, full utilization awaits the opening of a proper approach to the terminal from the land side. Negotiations to this end have been had with the city authorities.

The warehouse is 200 feet long by 50 feet wide. Freight handling machinery will later be supplied, of the type required by the nature of freight shipped and received.

At Dupont Street, Greenpoint, in the Borough of Brooklyn

Two piers are provided, upon one of which is located a warehouse 402 feet long by 50 feet wide, this structure being in addition to a storage building located in the rear of the terminal site. While the greatest use of the terminal facilities provided here has been in connection with the assembling of fleets of coal barges, the development of the ordinary freight traffic is looked for during the coming season.

At Gowanus Bay, in the Borough of Brooklyn

The work on the new pier was brought to completion late in 1920. A wooden freighthouse 160 feet long by 32 feet wide has been in place during the entire season. Contract for a permanent structure has been awarded and the completion of the new building will doubtless be seen before the opening of another season of navigation.

This locality has been made use of to a large extent for the mooring of boats, and a year ago the Department set it aside as winter quarters for canal barges. It is here that the first grain elevator for New York City will be constructed. Preliminary work is now under way. Special reference to this project will be found later in this report.

At Halletts Cove, in the Borough of Queens

Contract was awarded in 1919 for the work necessary to provide terminal facilities at this point, which work includes the dredging of a slip, the building of a dock wall and repairs to the existing bulkhead. It has not as yet been brought to completion.

At Flushing, in the Borough of Queens

The work of dredging the necessary terminal harbor and the building of a dock wall with a wooden freighthouse has been under way since 1919, but completion has not as yet been had.

LOCATION AND EQUIPMENT, OUTSIDE THE CITY OF NEW YORK

At practically all points along the line of the improved canal where indications existed as to the development of traffic in sufficient amount, terminal docks have been provided.

Below will be found a complete list of these localities with the equipment which may be found available at each. Where the name of the locality alone appears, a dock wall only has been provided.

Location	Type and size of warehouse	Freight handling machinery
Albany.....	Concrete and steel, 33 x 210....	15-ton hand steel derrick, 2-ton portable steam crane.
Amsterdam.....	Timber (2), 32 x 100.....	1-ton derrick, electric.
Brewerton.		
Buffalo.....	Timber, 32 x 200; concrete and steel, 80 x 500.....	Two 2-ton portable steam cranes.
Canajoharie.....	Timber, 32 x 50.....	½-ton hand derrick.
Cleveland.		
Cohoes.		
Crescent.		
Fonda.....	Timber, 16 x 100.....	½-ton hand derrick.
Fort Edward....	Timber, 16 x 30.....	½-ton hand derrick.
Fort Plain.....	Timber, 32 x 100.....	½-ton hand derrick.
Frankfort.....	Timber, 16 x 60.....	½-ton hand derrick.
Fulton.....	Timber, 20 x 50.....	½-ton hand derrick.
Herkimer.....	Timber (2), 16 x 100 and 20 x 33.	½-ton hand derrick.
Holley.....	Timber, 16 x 30.....	½-ton hand derrick.
Ilion.....	Timber, 16 x 60.....	½-ton hand derrick.

Location	Type and size of warehouse	Freight handling machinery
Little Falls.....	Timber, 32 x 150.....	15-ton electric steel derrick, 2-ton portable steam crane, $\frac{1}{2}$ -ton hand derrick.
Lockport (upper)	Timber, 32 x 100.....	$\frac{1}{2}$ -ton hand derrick.
Lockport (lower)	Timber, 32 x 100.....	$\frac{1}{2}$ -ton hand derrick, 15-ton hand derrick, 2-ton portable steam crane.
Lyons.....	Timber, 32 x 50.	
Mechanicville... ..	Timber, 16 x 30.....	$\frac{1}{2}$ -ton hand derrick.
Medina.....	Timber, 24 x 70.....	$\frac{1}{2}$ -ton hand derrick.
Oswego (lake).....	.....	$\frac{1}{2}$ -ton portable steam crane.
Oswego (river).....	Timber, 32 x 50.	
Plattsburg.		
Port Henry.....	Timber, 16 x 30.	
Rochester.....	Timber, 32 x 200.....	2-ton portable steam crane, 8-ton fixed steam derrick.
Rome.....	Timber, 32 x 200.....	15-ton electric steel derrick, $\frac{1}{2}$ -ton hand derrick, $\frac{1}{2}$ -ton conveyor.
Rouses Point.		
Schenectady.....	Timber, 16 x 100.....	$\frac{1}{2}$ -ton hand derrick, $\frac{1}{2}$ -ton portable electric conveyor, 2 2-ton portable steam cranes.
Schuylerville*		
Spencerport.....	Timber, 16 x 30.....	$\frac{1}{2}$ -ton hand derrick.
St. Johnsville.		
Syracuse.....	Timber, 32 x 200.....	Four 1-ton electric derricks, 2 2-ton portable steam cranes.
Thomson.....	.....	One $\frac{1}{2}$ -ton electric package freight conveyor.
N. Tonawanda..	Timber, 24 x 100.....	15-ton hand steel derrick.
Tonawanda.....	Timber, 32 x 80.....	2-ton portable steam crane
Troy (lower)....	Timber (2), 16 x 50, 32 x 100...	Two $\frac{1}{2}$ -ton hand derricks, 2 2-ton steam cranes.
Utica.....	Timber, 32 x 200.....	Two $\frac{1}{2}$ -ton hand derricks.
Waterford.....	.....	One $\frac{1}{2}$ -ton hand derrick.
Watkins.		
Weedsport.....	Timber, 16 x 30.	
Whitehall.....	Concrete and steel, 33 x 114....	15-ton hand steel derrick, 2-ton portable steel crane.

Railroad connections will be found at the following terminals:

At Erie Basin, Buffalo, with the New York Central Railroad Company;

At Rochester, with the Lehigh Valley Railroad Company;

At Syracuse, with the Delaware, Lackawanna & Western R. R. Co.;

At Schenectady, with the Delaware & Hudson Railroad Company;

At Troy, with the New York Central R. R. Co., and Boston & Maine R. R. Co.;

* The terminal at Schuylerville is located on a branch of the unimproved Champlain canal and is available only for the use of craft of the ordinary canal boat type.

At Albany, with the Delaware & Hudson Railroad Company;
and

At Oswego, with the Delaware, Lackawanna & Western Railroad Company.

ORGANIZATION FOR MAINTENANCE AND OPERATION OF TERMINALS

With the practical completion of the terminal project at an expense to the State of over \$19,800,000, the problem of organizing a maintenance and operation force was given most serious study. It was realized that not only must the property itself be cared for in an efficient manner but to the end that the shipping public might have the fullest use of the terminals, their management should be along practical business lines.

For the care and operation of the elaborate freight handling machinery, I assigned employees from other branches of the Department's work who had been appointed from the civil service eligible lists, and who had demonstrated their qualifications and fitness for the nature of the work now in hand. With these men as a nucleus, electricians and other skilled mechanics were secured as needed.

The method adopted for the management of the terminals is somewhat similar to that followed by the city of New York. One or more officials under the designation of harbormaster have been employed to remain constantly on duty during 16 hours of the day at each terminal. Such harbormasters are vested with authority to enforce the adopted rules and regulations. They are responsible for the State's property placed in their immediate care and are charged with the duty of seeing to it that the needs of traffic are served and the rights of all protected. At the head of the division of harbormasters is a chief, to whom all questions arising between the local harbormasters and the shipping public must be referred for decision, such chief harbormaster in turn being guided by instructions from the Superintendent of Public Works.

This plan of organization in its actual application has borne excellent results. Nearly all of the men making up the force had more or less experience in lines of work connected with water

transportation and this fact greatly assisted me in the State's new enterprise.

What I have said above refers particularly to the important terminals in the city of New York. To other terminals along the line of the canal, harbormasters also have been assigned, but as may be expected the volume of business done has not reached the proportions seen at the New York terminals.

CHARGES FOR USE OF TERMINALS

While under constitutional provision navigation of the State canals is free, it has been my opinion, as well as that of my immediate predecessors, that the inhibition as to fees did not apply to the terminal facilities which the State has furnished in conjunction with the waterways. Since section 15 of the Terminal Construction Act authorizes and directs the Canal Board to prescribe rules and regulations for the use and management of the terminals, it has been assumed that such rules and regulations may provide for payment to the State of reasonable fees by those who make use of the new docks and their facilities. At any rate, such policy has been followed.

At my recommendation, a partial schedule of charges has been adopted by the Canal Board, covering the use of terminals located in New York City and Buffalo. During the past two seasons, the use of other terminals has been free to canal users, it having been deemed wise in the efforts being made to develop canal commerce to hold such question in abeyance. It has been made plain however that the making of charges for all of the State terminals is in contemplation and at some future date a complete schedule of fees will be adopted. The handling of the matter of terminal charges in this manner seems to have been satisfactory to all interests and the charges made for the privileges available at the New York City terminals have been willingly paid by those making use of them.

The whole matter of terminal charges is one of the greatest importance. While the State offers to commerce a splendid water route for the transportation of freight from the Great Lakes to the sea without charge of any kind, it is but just that those who

avail themselves of additional facilities while making the passage should make reasonable return for the same, provided that the financial burdens thus imposed will not be too great. I realize that any charge made for terminal use will be reflected in the canal transportation rate and thus have an important bearing on the amount of traffic, but nevertheless it is only just that the canal terminals be made self-supporting and that the State be put to no expense for their upkeep and operation.

SUGGESTED AMENDMENTS TO TERMINAL ACT

The experience had by the department in one year's actual management of the terminals has shown the necessity for amendment of the Terminal Act, in order that the State's interests might be protected.

By section 15 of the statute (chapter 746 of the Laws of 1911), the Canal Board is authorized and directed to prescribe rules and regulations for the use of the terminals, which rules and regulations may be altered from time to time. It is further provided that such rules and regulations and the provisions of the act for the management, administration and control of terminals, shall be enforced by the Superintendent of Public Works.

Fairly interpreted, this provision of law would seem to definitely limit the authority of the Superintendent of Public Works. Although intended by the Constitution and the general canal law to have custody and control of the canal system of the State and of structures connected therewith, and in spite of the fact that he is primarily responsible for their maintenance and operation, he is distinctly limited in his management to the directions given him by the Canal Board. In enacting the provisions of section 15, I assume the framers of the measure had in mind the principle of establishing some method of control of the acts of the administrative official. As applied to broad matters of policy the application of such principle is most wise and is along the lines followed in nearly all the activities of the State government.

As it now reads, however, section 15 confers on the Canal Board sole authority in matters of detail. It deprives the Superintendent of Public Works of any direct power, and any action of his not based on a specific rule and regulation duly adopted by the Canal Board is subject to challenge by any interested party, and may be successfully resisted even if such action was absolutely necessary for the protection of the State's interests and its own property.

The management and operation of docks and wharfs, and the great warehouses connected with them, and the use of the elaborate freight handling machinery, is a new enterprise on the part of the State. As referred to above, it is not practicable for the Canal Board to adopt such rules and regulations for the management, administration and control of terminals as will cover all contingencies. Especially with reference to New York harbor conditions which are constantly changing, and with due regard to the State's policy of canal maintenance along liberal lines, the Superintendent of Public Work should be placed in position to meet the situation at all times and to administer the affairs connected with the terminals in a manner that will be for the State's best interests.

I therefore recommend that consideration be given to the amendment of section 15 of chapter 746 of the Laws of 1911 in such manner as will vest in the Superintendent of Public Works authority to take all necessary action with respect to the terminal property as the State's interests may require from time to time without awaiting the convening of the members of the Canal Board to consider the subject in hand. It is not in my mind to suggest the removal of the terminals entirely from Canal Board jurisdiction, but merely to place some original power in the hands of the Superintendent of Public Works to enable him to cope with contingencies frequently arising.

The act should be amended further by making provision for some method by which penalties may be imposed upon those violating the rules laid down for the use of the terminals or refusing to comply with directions given by the Superintendent of Public Works or the harbormaster. Occasions already have arisen

where the need of some power such as this was apparent. Full benefits cannot be had from this great plant without an orderly conduct of affairs connected with it, and the rules adopted will be of little avail unless means are at hand to punish those who disregard them. In my opinion, your Honorable Body should consider the enactment of a law which would confer upon the Superintendent of Public Works authority to impose penalties on offenders, and that the amounts of such penalties should be recovered by the Attorney-General in an appropriate action or proceeding instituted in the name of the State of New York in any court of competent jurisdiction.

Another serious defect in the statute is the lack of authority, as I understand it, on the part of the Superintendent of Public Works, to remove or cause to be removed from any terminal site any vessel, sunken or afloat, whose presence hinders the full and proper use of the terminal, or constitutes a menace to other craft. In order that the State might be put to no loss in the taking of such action, any expense incurred in such removal work should be made a charge against the owner of the boat so removed, and the amount should be collected from such owner by appropriate legal proceeding; and in the event that the owner of the boat so removed was unknown, or failed to claim the same, the State should have authority to sell the same to the highest bidder and reimburse itself for the cost of the removal work.

I also recommend that a similar provision be included in the statute covering freight or property placed or stored on any terminal pier or any warehouse and which the owner refuses or neglects to remove after due notice, or which may be unclaimed or abandoned.

REVENUE SECURED

Already the terminals located in the city of New York have been placed on what will not only become a self-supporting basis, but will secure to the State a surplus as well. In addition to the ordinary fees imposed for the dockage of boats, permission

has been granted for the temporary storage of freight in the various warehouses, and monthly rentals received therefor.

Another source of financial return has been the use of certain of the terminal sites by steamers of the larger size. I am fully aware that the terminal docks constructed by the State in New York City were primarily intended to facilitate and develop commerce on the improved canal system, and for the handling of freight destined to or bound from the canals. Nevertheless pending the development of such amount of canal traffic as would require the use of all such terminals, I deemed it unwise and contrary to the State's best interests to permit the structures to remain idle when the general interests of commerce in and about New York harbor demanded some use of them. In accordance with this principle, where space has been available at several of the New York City terminals, with the approval of the Canal Board I have permitted the docking of steamers on payment of the fees fixed in the adopted regulations. Such permits, however, and in fact all of those issued by the department, are strictly revocable in their nature, and at all times the department has been in position to provide for the necessities of purely canal traffic as they appear.

During practically what was the first year of terminal operation, the revenue derived from the terminals located in the city of New York for the twelve months ended December 1st was \$79,808.80, of which the sum of \$74,221.71 covered fees collected for wharfage, and \$5,587.09 considerations for the issue of permits authorizing the use of the freight handling machinery and storage in the warehouses. With the business rapidly developing, the continuation of the present policy is certain to make the whole terminal project not only self-supporting but provide a fund for future betterments.

So far as the terminals at Buffalo are concerned, the permits already granted for use during the closed season of the Erie Basin dock will net the department the sum of \$1,500.

ADDITIONAL IMPROVEMENTS DESIRABLE IN CONNECTION WITH NEW CANAL AND ITS TERMINALS

Without intending any disparagement of the canal and terminal systems as they now exist, or attributing to them any defects which would prevent their profitable use by commercial enterprises, the fact remains that to carry out to the full the purposes had in mind when the great projects were undertaken, much remains to be done. It is true that a splendid channel has been made available for commerce. It is equally true that to a considerable extent the demands of transportation interests for dockage facilities have been met. The moneys already devoted by the People to the great enterprise, totaling upwards of \$154,000,000, have been well spent and the value of the work done is apparent to all.

In spite, however, of all that has been accomplished, it has become apparent to those who have devoted years of study to the subject that facilities for the handling of grain and coal must be provided if the canal is to take its place as a great transportation instrumentality. It also has been urged that many localities along the Hudson river and on the line of the canal itself have been neglected, so far as terminal improvements are concerned, and these places deserve serious attention, not only by reason of their importance but also on account of the prospect of business to be derived.

This question has received much attention from the commercial organizations of the State. Many conferences were had not only as to the policy which should be suggested to the State, but also with reference to the nature and location of the further improvements desired. After a thorough discussion at public meetings, at which representatives of commercial and civic bodies throughout the State were present, it was determined to submit to the Legislature a proposition calling for a further issue of bonds. The slogan "Finish The Job" was adopted, and following an enthusiastic meeting held in the city of Albany in March last, a program of action was adopted which resulted in the introduction in the Senate on April 8, 1920 of the bill known as Introductory No. 1530.

This measure authorized an issue of bonds in an amount not to exceed \$33,000,000 to provide funds for the following purposes:

For the construction of a grain elevator —

At Buffalo	\$1,600,000
At Tonawanda	1,000,000
At Oswego	1,000,000
At Gowanus Bay (Borough of Brooklyn, City of New York)	2,400,000

For the construction of coal transfer terminals—

At Ithaca	1,250,000
At Watkins	1,250,000

For the construction of canal docks and terminal facilities on the Hudson river —

At Poughkeepsie	400,000
At Kingston	700,000
At Newburgh	600,000
At Hudson	300,000
At Yonkers	500,000

For completing the terminal improvement work already begun —

At Erie Basin and Ohio Basin Terminals, Buffalo	2,500,000
At Rochester	1,400,000
At Syracuse	650,000
At Utica	450,000
At the city of New York	3,500,000

For providing terminals at municipalities not specifically mentioned, and for furnishing at all terminals suitable coal and freight handling devices as may be necessary

1,000,000

The remaining portion of the proposed bond issue, namely, \$12,500,000, was intended to cover the cost of meeting obligations already incurred by the State in connection with damage claims arising from the work performed under the so-called Barge Canal and Terminal Acts, it having been found that the balance remaining in the funds applicable to those projects will be insufficient to pay the anticipated awards on unsettled claims. Many of these claims are now in litigation, and the amount of recoveries

will remain undetermined until the final decisions of the court have been rendered. Based on past experience in dealing with claims of this character it is believed that the sum named will be needed to discharge the State's legal obligations.

While Senate Bill Introductory No. 1530 was not enacted into law, appropriations were made by which a beginning of the work outlined in the program was made possible. As I understand it, the pendency before your Honorable Body of a proposition authorizing the issuing of bonds for another purpose made impossible favorable consideration of the whole canal improvement project. I now earnestly invite your serious attention to it.

The making of provision to meet the State's legal obligation with respect to pending claims of course must be admitted, but it is of equal importance that the State shall not waver in its policy of waterways improvement. The immense investment already made must be protected. The job should be finished. With so much already accomplished, and with the realization of the ultimate object of the canal improvement in sight, it would be a direct reversal of the century old policy of the State to withhold from its waterways the moneys needed to render them an efficiently working commercial plant. Never in the history of commerce has the need of water transportation been so great, and never was the success of any venture more assured.

Although the movement to fully complete the canal and terminal improvements had its source in the demands of the various municipalities of the State backed by the important commercial organizations, and it was through their efforts that the subject was presented in concrete form a year ago, I take this occasion of officially submitting the necessities of the matter to you, adding to the appeals already made, my own official endorsement, "*Finish the Job.*"

CONSTRUCTION OF TWO GRAIN ELEVATORS AUTHORIZED

While as I have stated above, the proposed referendum providing for further extensive canal construction work was not adopted at your last session, your Honorable Body recognizing the importance of the matters covered by it, enacted Chapter 698

of the Laws of 1920, which authorized the construction and equipment of Barge canal grain terminals at Gowanus Bay in the city of New York and at Oswego. The execution of contracts for the former structure was authorized to the extent of \$2,500,000 and for the latter of \$1,000,000. To permit of the commencement of actual operations, the sum of \$550,000 was made available for the work at Gowanus Bay and the sum of \$225,000 for that at Oswego.

Contracts for foundations for both elevators already have been let and the work is now under way. With the practical completion of the plans and specifications for the entire structures, the department will be in position to award the remaining contracts early in the present year, thus making necessary the appropriation at this legislative session of the balance in the total of the authorization. I therefore recommend that such action be taken in order that the grain elevators at Gowanus Bay and at Oswego may be available for the actual use of commerce during the season of 1922.

So great has been the interest displayed in these projects, that the breaking of ground for the foundations of the two elevators was not allowed to go unnoticed. On November 12th at Brooklyn, and again on December 16th at Oswego, there were gathered at the respective sites officials of the State and nearby municipalities and representatives of commercial organizations and canal transportation companies to take part in the first steps in what is considered a project second only in importance to the enlargement of the canal. In the addresses delivered, prophecies of the splendid results to follow were freely made. On both occasions, to the State Engineer and Surveyor and myself, was accorded the honor of actually breaking ground for the first grain elevators ever authorized and contracted for by the State of New York.

ADDITIONAL TERMINAL EQUIPMENT AUTHORIZED

As a further step toward carrying into effect the recommendations of the canal authorities and the commercial organizations of the State, there was also appropriated at the 1920 session, the sum of \$1,850,000 for the continuation of the work of constructing canal terminals and furnishing facilities for traffic. Chapter

402, which made such moneys available, directed that of the total named, the sum of \$600,000 should be devoted to necessary improvements at Buffalo; the sum of \$500,000 at Rochester; and the sum of \$750,000 in the city of New York.

With the expenditure of those amounts, it is expected that the terminal facilities in the municipalities named will be complete. Some of the additional work already has been placed under contract and plans and specifications for the remainder are being hurried to completion.

EQUIPMENT FOR MAINTENANCE AND OPERATION

To carry on the extensive work connected with the upkeep of the canal system, it is obvious that plant, machinery and tools of modern type are essential. Until such equipment is provided, the department must of necessity depend on the use of outside agencies for much of the work at necessarily large rentals. In line with good business principles, the department should be supplied with such plant as the maintenance work requires.

Some of the more important requirements are as follows:

FLOATING PLANT

The first and most important need is for three dredging outfits, one to be assigned to each division of the canal. The channel being located for much of its way in silt bearing streams, constant dredging operations must be conducted to secure and maintain the required boating depth. The use of hydraulic dredges is recommended and of course these units must be supplied with necessary accessories such as scows, pontoons, pipes and similar incidentals.

New tugs and steamers of a modern type are also badly needed. Their need is constant during the navigation season and especially in connection with the installation and removal of buoys during the spring and fall of each year. As a beginning, at least one steam tug should be purchased for each of the three divisions.

In the way of supplying what are known as derrick boats, the department has made some progress. Using to a considerable extent material already on hand, three such craft have been constructed.

On the Middle Division, the plant was fully completed and all necessary operating machinery installed, the unit becoming ready for use near the close of the season. The progress made on the Western Division boat consisted only in the building of the hull, lack of funds making impossible the installation of the necessary mechanical equipment. It is desirable that the machinery be installed in this craft next spring, and request for the appropriation of sufficient moneys to purchase boiler and engines, derricks and other accessories has been included in my budget for the coming year.

The derrick boat recently completed for use on the Eastern division is worthy of special mention. A hull constructed of long leaf yellow pine 110 feet by 33 feet with $8\frac{1}{2}$ foot sides has been equipped with two 50 horse power boilers, four engines, a steam winch and a 6-inch pump. At one end of the boat, a steel A frame is in place, complete with fittings and all appurtenances and possessing a lifting capacity for a height of 31 feet of at least 80 tons. At the other end of the craft, a ten-ton derrick with 15-ton fittings and a 70-foot boom has been erected. This apparatus has been so arranged as to pass conveniently under canal bridges. Living quarters for a crew of six men also have been provided. The whole unit is supplied with a modern electric lighting system. Its use will be effective for many purposes. It is admirably adapted for the raising of sunken boats and the salvaging of their cargoes. Its design is such that work of that kind can be performed quickly and at a minimum of expense. With the use of the A frame, repairs to locks will be simplified. It is installed in such manner as will permit of the lifting of a damaged gate from its recesses and as conveniently will replace it. Its presence on the canal fills a long felt want.

NEW REPAIR SHOPS

The need of new and larger shops at various points on the canal line is apparent. More necessity exists now than ever for such shops in that the operating machinery of the locks and lift

bridges will need replacement and renewal and this work should properly be done by State forces. The exact type of machinery required for repairs is not always available in outside agencies.

Modern shops must be provided in the near future for each of the three divisions. The use of the existing buildings at Syracuse and Rochester has been seriously impaired; in the one case the present site is at too great a distance from the new canal, and in the other, a portion of the repair site has been set aside for other purposes.

DRY DOCKS

No practical commercial waterway may be deemed complete without dry dock equipment. The value of the craft plying the waterway and the loss which would occur if their progress is unduly delayed, is so great that means should be conveniently at hand to make prompt repairs to a damaged vessel. Such structures should be in place at Waterford, Little Falls or vicinity, Baldwinsville, Oswego, Rochester and Lockport.

EQUIPMENT FOR LOCK PROTECTION

Although several seasons have passed without serious detention to navigation on account of damaged lock gates, the danger of such accident is always imminent. I believe that the preservation of the lock structures from serious injury has been accomplished only through the exercise of the greatest vigilance on the part of those assigned to their care. Nevertheless, it is the part of wisdom that the department should be placed in position to deal with any serious conditions that may arise. The method of making quick repairs to a damaged lock gate has received careful study. Attempts have been made to devise in advance of emergencies some plan of operation. According to the studies thus far made, it appears that the most effective method of insuring against navigation delays would be the construction in front of the upper and lower gates of a type of guard gate similar in kind to those already in place at Seneca Falls and Waterloo. Such guard gates would serve a double purpose. Should a lock gate be injured so badly as to prevent its use, the guard gate may be

utilized in its place, and, in addition, it would be of great assistance in unwatering the lock chamber for the making of repairs. It is true that the cost of installing 114 structures of this type would be large but the ultimate benefit to be secured would justify the expenditure.

IMPORTANT CANAL REPAIRS PROGRESSED

During the year just past, extensive dredging operations were found to be necessary to provide and maintain the statutory 12-foot depth of water in the canal channel. While the department's dredging plant was utilized to the utmost extent, the amount of work involved was so large that the employment of outside agencies was necessary. The localities in which the greater portion of the dredging operations were conducted included almost the entire length of the Champlain Canal; many parts of the canalized Mohawk river; at Herkimer, where a large section of the bank had slid into the channel; easterly of Oneida Lake; and throughout the Wayne county section.

A large amount of riprap protection was placed along the banks of the Mohawk river and the Upper Hudson. Tonawanda creek also was found in need of improvement of this kind. While all of the work desirable to be done was not accomplished, such progress as was possible with the funds at the department's disposal was made.

As stated elsewhere in this report, upon the taking over of the maintenance of the old Scotia toll bridge, the piers were found to be undermined and the safety of the structure was threatened. Work to reinforce the bridge was at once undertaken and progressed to completion, and extensive repairs to the flooring were made.

The repair of the damage done to the movable dam across the Mohawk river adjacent to Lock No. 8 at Scotia was continued. Serious conditions were found to exist here owing to the action of the water on the foundations.

The approaches to the bridge over the Glens Falls feeder between Glens Falls and Hudson Falls, together with the roadway, were widened and the dangerous situation which had existed for many years was relieved. The work done by the department

rendered unnecessary the building of an entire new structure as had previously been planned.

The above instances are but a few of the important repair jobs which were conducted during the year just closed. The regular repair forces were constantly busy at all times making betterments and improving navigable conditions where necessity for same was found to exist. The splendid condition of the whole canal system at this time bears witness to the character and extent of the labors expended.

SCHENECTADY-SCOTIA BRIDGE

APPROPRIATION OF MONEYS IMMEDIATELY NECESSARY

The work of constructing a bridge across the Mohawk river and the Barge Canal to take the place of the existing Schenectady-Scotia toll bridge, as authorized by Chapter 735 of the Laws of 1917, as amended by Chapter 634 of the Laws of 1919, was gotten well under way during the year just past.

As stated in my report of a year ago, the lowest bidder for the first contract, covering the construction of the abutments and approaches, declined to execute the necessary agreement and bond on the ground that the award of the same had been too long delayed, and upon such refusal the sum deposited with his bid was declared forfeited to the State.

The work was again advertised and in February, 1920, the contract for constructing the abutments and approaches was awarded to Dubois Bennett & Son of Schenectady, for the sum of \$234,593. Operations were at once commenced and much progress has been made.

The award of the first contract was made possible by the fact that the cost of the greater portion of the work involved was, under the statute, to be borne by the city of Schenectady and the village of Scotia, and the necessary funds had been deposited with the State. To meet the State's share of the cost, moneys were available from the canal bond issue.

By the provisions of the act, the entire cost of constructing the river piers is made a State charge. Although in February last, the plans and specifications for that portion of the improvement were completed, the department was not at that time in position

to ask for bids because of the fact that the unobligated balance in the sum set aside from the proceeds of the canal bond issue was insufficient to meet the estimated cost of the second contract, and the Legislature had made no direct appropriation for the purpose from the general fund.

I thereupon presented the facts to the Finance Committee of the Senate and the Ways and Means Committee of the Assembly and requested that appropriations of moneys be made pursuant to the provisions of Section 8 of Chapter 634 of the Laws of 1919, which directed that for the purposes of the improvement "a sum not to exceed \$891,000 shall be hereafter appropriated from the general fund." I pointed out that since a State officer was forbidden by Section 35 of the State Finance Law to "contract indebtedness on behalf of the State or to assume to bind the State in an amount in excess of money appropriated or otherwise lawfully available," I was without power to proceed further with the work unless legislative action was taken.

To meet this situation, and at the same time to avoid the appropriation of a large sum of money which would not actually be needed during the current year, your Honorable Body enacted Chapter 613 of the Laws of 1920, amending the section of the Finance Law referred to above, by providing that it

"shall not apply to a case where a statute expressly authorizes the making of a contract or contracts for a stated maximum amount which exceeds the money appropriated or otherwise available for payments thereon."

Pursuant to this authority, and in spite of the fact that moneys were not in hand to meet the total estimated cost of the work, the contract for the river piers was duly advertised and in July, 1920, with the approval of the Canal Board, was awarded to the American Pipe and Construction Company of Philadelphia, Pa., for the sum of \$961,963. The work is now under way.

Plans and specifications for the third contract which will provide for the building of the bridge superstructure are nearing completion and the department will be in readiness to ask for bids early in the coming year. According to the present estimate of cost, the sum of \$1,105,000 will be needed for this branch of the improvement.

The following statement will give the present status of the whole matter from a financial standpoint:

Set aside from canal bond issue.....	\$500,000
Contributed by County of Schenectady for general purposes	100,000
	<hr/>
Total	\$600,000
Obligated for Engineering and supervision	\$50,000
State's share of cost of first contract covering abutments and approaches (charged to Canal Bond Issue)	85,840
	<hr/>
	135,840
Available for further contracts.....	<hr/> \$464,160 <hr/>
Obligations incurred under second contract for river piers	\$961,963
Amount available	464,160
	<hr/>
Additional amount needed to meet demands under second contract	\$497,803
Estimated amount needed to pay for construction work under third contract during 1921, based on present estimate of cost.....	300,000
	<hr/>
Amount needed to be made immediately available	\$797,803
or in round figures	<hr/> \$800,000 <hr/>

In the above statement, no mention has been made of the sum of \$211,000 contributed by the city of Schenectady, the sum of \$50,000 received from the village of Scotia, or the sum of \$48,426.49 also received from Scotia as representing its share of the purchase price of the old toll bridge, for the reason that these amounts are applicable to payment for work done under the first and last contracts, the figures for which are not above included.

Therefore, to meet the obligations of the State already incurred in connection with this project and to carry on the work during the coming year, an appropriation of \$800,000 must be immediately made from the general fund,

NECESSITY FOR AMENDMENT OF ORIGINAL ACT

A year ago I called your attention to certain provisions of the law authorizing the improvement, with which it was not in the power of the Superintendent of Public Works to comply. I referred particularly to Section 1 of the Act, as amended by Chapter 634 of the Laws of 1919, in which the Superintendent of Public Works is authorized and "directed" to enter into the necessary contract or contracts for the construction of the bridge and its abutments "for an amount not to exceed in the aggregate \$1,734,000." This total is to be made up of moneys contributed by the county of Schenectady, the city of Schenectady and the village of Scotia, the balance to be paid by the State. Of the State's share, the sum of \$500,000 is diverted from the Barge Canal moneys and the remainder is to be hereafter appropriated by the Legislature from the general fund.

While mandatory in its provisions regarding the type and dimensions of the proposed structure, the law is specific as to the total cost to the State in that in Section 8, as amended by Chapter 634 of the Laws of 1919, it provides that

"The aggregate cost to the State of the construction of the improvement described in this act, exclusive of the amount to be paid by the city of Schenectady, county of Schenectady and the village of Scotia shall not exceed \$1,391,000, of which not more than \$891,000 shall be hereafter appropriated from the General Fund."

Since the estimate on which the amounts named in the act were based was made up more than two years ago, and since considerable advances in the price of labor and materials have been seen since that time, it was inevitable that the total cost of the bridge would considerably exceed the limit fixed in the statute. In calling this matter to your attention, I pointed out the fact that a situation might prevail under which the Superintendent of Public Works would be faced with an apparent violation not only of the act providing for the construction of the bridge, but the provisions of the State Finance Law as well, and that with the uncertain conditions which have prevailed in industrial fields a direction to a State officer to carry forward to completion an

improvement of so great a magnitude as this should not be coupled with a limitation as to the aggregate cost, based on an estimate made so long ago.

While the State Finance Law has been amended to cover the circumstances, the limitation in the authorizing statute still remains. With but two of the contracts under way, it is already certain that the structure cannot be completed within the specified amount.

Therefore, I renew the recommendations made by me a year ago that the provisions of the act authorizing the construction of the bridge be amended by striking from it the definite limitation as to cost, or in such other manner as in your opinion will remedy from a legal standpoint the situation as it is now known to exist.

ACQUISITION OF TOLL BRIDGE BETWEEN SCHENECTADY AND SCOTIA

As part of the proceedings looking to the construction of the bridge over the Mohawk River between Schenectady and Scotia, provision was made in Chapter 735 of the Laws of 1917 for the acquisition by the city of Schenectady of the old toll bridge spanning the river between that city and the village of Scotia, and owned by the town of Glenville. Under Section 11, upon the payment by the city of Schenectady to the town of Glenville of the required amount, it was provided "that legal title and sole ownership of the said bridge and the privileges and appurtenances thereto shall be forever vested in the State of New York, subject however, to any legal and vested rights or franchises, if any, not owned by said town." With the conclusion of all proceedings connected with such purchase, title to the old toll bridge was in the latter part of March, 1920, vested in the State of New York, and its maintenance and repair placed under the direction of the Superintendent of Public Works.

On an examination of the old structure, its condition was found to be bad and even dangerous. Not only was the flooring in need of renewal, but the bridge piers themselves were undermined and the safety of the whole structure was threatened. Since the bridge

is located on the main highway to the west and carries an enormous amount of traffic, the necessary repairs were immediately begun by department forces and thus far the sum of \$50,733.83 has been expended.

Under the law the bridge must be maintained until the completion of the permanent structure. This is a distinct extension of service on the part of the department. The transfer of the bridge and its custody taking place at the close of the legislative session and the condition of the structure being unknown prior to that time, the necessity of performing the work was not realized when the requisition for departmental appropriations was made. The expenditure of the large sum referred to above, therefore, has made necessary a request at this time for a deficiency appropriation of like amount.

HUDSON BRIDGE

Since the custody and maintenance of this structure was assumed by the department in 1919, needed strengthening and repair work has gone forward almost constantly. The bridge being one of the most important in the State, its maintenance in good condition for use is of the highest importance.

It was found desirable to replace the wooden track stringers with iron stringers existing in the upper deck, to rearrange the steel stringers in the floor beams, install new stringers where necessary, provide wood block pavement on creosoted plank for the roadway and to generally reinforce the superstructure.

The appropriation of \$50,000 made a year ago was not sufficient to cover all the work that must be done. Progress has been made to the extent of the funds available, but a further appropriation of \$140,000 has been asked for use during the coming year. The painting of the structure is also planned.

Under the terms of the agreements existing between the State and the railway companies operating cars across the river at this point, the total revenue for the 12 months ended December 1, 1920, received by the department was \$25,109.03.

IMPROVEMENT OF APPROACHES TO HUDSON BRIDGE

The improvement of the approaches to the Hudson Bridge at both the Albany and Rensselaer sides was authorized by Chapters 585 and 586 of the Laws of 1920, the appropriation for work at the eastern end being \$40,000, and that for the western approach \$35,000. Both acts provided for the acquisition of certain property by the cities of Albany and Rensselaer and the transfer of title of the same to the State.

Although the plans and specifications for the work have been completed, no action has been taken toward awarding the contract inasmuch as the legal matters connected with the matter of property transfers have not as yet been concluded. It is expected that the department will be in position to advertise for bids on the work in the early winter.

CONGRESS STREET BRIDGE BETWEEN TROY AND WATERVLIET

Pursuant to the provisions of Chapter 246 of the Laws of 1920, as Superintendent of Public Works I took possession on May 24, 1920, of the property known as the Congress Street Bridge spanning the Hudson River between Troy and Watervliet, and in accordance with the statute declared such bridge to be a free bridge and a part of the State highway system.

The taking over of the bridge, which was the last structure in the vicinity of Albany and Troy on which tolls were charged, was an event of much importance from the standpoint of the localities affected. There were present at the time the governor and other State officers, officials of nearby municipalities, representatives of civic organizations and many citizens. Simple ceremonies were held and addresses made by the Governor and other officials.

With the transfer of the structure to the custody of this department, a permanent organization for its maintenance and operation was at once planned. Open competitive examinations were held for the positions to be filled and appointments were made from the Civil Service eligible lists duly established.

Under existing agreements, the revenue to be received by the State for the use of the bridge by the trolley company will be \$10,000 annually.

TWELFTH STREET BRIDGE BETWEEN TROY AND COHOES

On the night of March 4, 1920, the structure locally known as the Twelfth Street Bridge, spanning the Hudson River between Cohoes and Troy, was almost entirely destroyed by fire, the three middle spans partially dropping into the river.

At the time the fire occurred, the breaking up of the ice in the river seemed imminent and much concern was felt as to damage from flood should freshet conditions prevail and a gorge form. The fallen spans had lodged in the channel in such a manner as to constitute a strong dam and it was feared that should the river ice break up with such obstacles in place, the damage to adjoining property from the resulting high water would be most serious.

The bridge was formerly owned by the Cohoes-Lansingburgh Bridge Company and was acquired by the State under authority of Chapter 547 of the Laws of 1913, which act appropriated the sum of \$100,000 as the State's share of the cost of securing title. The proceedings taken were in accordance with the State Highway Law, which provided that upon acquisition of any toll bridge the same should be maintained at the expense of the city or cities within which it is situated. Since its acquisition by the State, the bridge had been maintained at the expense of the cities of Troy and Cohoes.

Immediately following the fire and when the dangers of the situation were realized, insistent demands were made upon this department by public officials of the counties of Albany and Rensselaer and of the cities of Troy and Cohoes, that action at once be taken to clear away the debris. Notwithstanding the fact that the structure was not under my jurisdiction, I directed that the work of clearing the channel be commenced by my department forces in order that the impending disaster might be averted, it appearing that no other agency had immediately available the necessary facilities. Due to conditions existing at the time, the operations were of a hazardous nature, but fortunately the removal of the debris was quickly accomplished without serious accident. Later, those parts of the structure which had fallen to the bottom of the river and menaced navigation were

removed. The cost of the work done by the department amounted to \$8,876.21, and was paid from funds provided for ordinary canal repairs. Request for a deficiency appropriation to cover this expenditure has been included in my budget recently submitted to you.

With the bridge destroyed, no means of crossing the river between Cohoes and upper Troy were at hand, and to meet the situation your Honorable Body enacted Chapter 907 of the Laws of 1920, providing for the building of a new structure, the cost to be borne partly by the State and partly by the counties of Albany and Rensselaer. Plans and specifications for the new structure have not been completed and it is unlikely that actual construction work can be begun in the near future.

To supply a temporary crossing of the river between the two cities the department was again appealed to. With the approval of the Canal Board, the construction of a footbridge was begun and this work is now nearing completion. This structure will be maintained until the permanent bridge has been completed.

CONDITION OF CANAL BRIDGES

The necessity of maintaining in a safe condition for traffic all bridges spanning the canal is apparent. Many of them are located on main arteries of travel and are subjected to enormous use. It is a matter of common knowledge that the extent and nature of highway traffic has changed during the past decade. Where previously loads did not exceed in weight more than three or four tons, a ten-ton motor truck loaded to capacity is at present not uncommon.

Where possible, bridges under suspicion of weakness have been strengthened and reinforced, but in many cases the structures are of such type that they cannot be made adequate for present day demands without entire rebuilding. Signs warning the public as to the limited capacities of the various bridges have been posted and in some cases attempts have been made to forbid their use by excessive loads. This, however, cannot be deemed as fairly meeting the situation. The State is under legal obligation to provide structures that will safely carry highway traffic over its

canals and in some cases where accidents have occurred substantial recoveries have been had by those damaged.

This is a subject which has been presented to your consideration in previous years. No longer should the cost involved be permitted to delay the replacement of inadequate crossings. Sufficient appropriation should be made to permit the department to deal effectively with the problem. I give you below a list of bridges whose condition, according to the reports which I have received, requires their entire rebuilding:

Broad Street Bridge, Waterford.
Stanwix Street Bridge, Rome.
Hillside Change Bridge, Black River Canal.
Diefendorf Bridge, Black River Canal.
Baker Bridge, Black River Canal.
Hall Farm Bridge, Black River Canal.
Main Street Bridge, Port Leyden.
Notre Dame Street Bridge, Fort Edward.
East Street Bridge, Fort Edward.
Pearl Street Bridge, Hudson Falls.
Bridge over Wappingers Creek, at New Hamburg, Dutchess County.

GLENS FALLS FEEDER

On November 14th, underground leakage in the Glens Falls Feeder, which seemed to have existed for a considerable period undiscovered, developed to such extent as to cause serious damage to the waterway. Leaks at seven different points in the feeder appeared simultaneously, permitting practically the entire flow to pass underneath the towing path and over adjacent property. The use of the feeder was made impossible and as a result the supply of water to the summit level of the Champlain Canal was practically shut off. The situation was all the more serious by reason of the fact that it occurred during the last month of the season when many boats laden with freight were hurrying to destination.

In addition, the approach wall of the bridge carrying the highway over the feeder between Glens Falls and Hudson Falls was badly undermined, necessitating the suspension of highway traffic in the interests of safety.

Although the performance of the permanent restoration work at that time was not practicable, the forces of the department immediately undertook such temporary repairs as would result in permitting the flow of water through the feeder and as well make possible the use of the highway bridge. Both objects were promptly accomplished and so far as navigation was concerned on the Champlain Canal, little or no inconvenience was suffered by reason of a lack of boating depth.

The whole situation along the Glens Falls Feeder is a serious one and has been the subject of consideration for some time. It is apparent that during the past several years a gradual settling of the banks has taken place and the leakage has been growing in volume. Where possible with the funds available, repairs have been made from time to time, but to effect any permanent improvement, work of an extensive nature is necessary. The waterway is an integral part of the canal system and although some traffic exists upon it, its chief mission is to afford a supply of water to the improved Champlain Canal. Without it, the maintenance of navigable conditions would be impossible. A complete repair of the feeder must be accomplished before the opening of another season of navigation and I recommend that the sum named in the Department's requisition be immediately appropriated for that purpose.

IMPROVEMENT OF FULMER CREEK

Chapter 904 of the Laws of 1920 appropriated the sum of \$25,000 for the improvement of Fulmer Creek at Mohawk, in Herkimer County, the work to be done under the direction of the Superintendent of Public Works by contract or by department forces, whichever method seemed for the best interests of the State. The act provided that the proposed improvement should be accomplished "by extending the present concrete wall on such creek to Minnow creek and by removing from the creek channel between the canal aqueduct and Minnow creek, such debris, silt and other obstructions to the flow of water that may exist therein."

An examination of the existing conditions showed the impracticability of performing the work in the manner specified. The cost of extending the present concrete wall to Minnow creek

was found to be large, and even had it been possible to secure the necessary consents of property owners, it was seen that the existence of such extended wall would result in greater damage to property on the opposite side. So many difficulties were presented both of a physical and legal nature the department was unable to commence the work.

If the provisions of the act are to be carried out, I recommend that it be amended in such manner as to eliminate the direction contained therein as to the method of doing the work. The protection of property adjacent to the creek may be amply secured by excavation of material from the channel and the construction of earthen embankments for the required distance.

IMPROVEMENT OF LIMESTONE CREEK AT FAYETTEVILLE

This improvement was originally authorized by Chapter 751 of the Laws of 1917, which made an appropriation of \$35,000 therefor. Owing to the impossibility of placing the work under contract within such amount, Chapter 905 of the Laws of 1920 appropriated the additional sum of \$6,000, and at the same time amended the original act by making it discretionary with the Superintendent of Public Works as to whether the improvement should go forward by contract or by department forces. The latter method was deemed advisable, and operations were begun in the late summer. Included in the work proposed is the construction of a new bridge over the creek at Fayetteville, with temporary provision for the maintenance of trolley traffic. A portion of the latter expense will be borne by the railway company operating its line at this point, and funds to the extent of \$4,000 have been contributed for this purpose. It is expected that the improvement will be brought to completion during the coming year.

ONEIDA FEEDER IMPROVEMENT

The work of improving the Oneida Feeder through the corporate limits of the city of Oneida, as authorized by Chapter 884 of the Laws of 1920, was undertaken by the department forces in the early fall.

The improvement consists of widening, raising and strengthening the east bank, and straightening and deepening the channel to a sufficient depth to eliminate the overflow of the banks. While much progress has been made, the work has not been completed.

GRIFFIN CREEK IMPROVEMENT

Pursuant to provisions of Chapter 906 of the Laws of 1920, the clearing of the channel of Griffin creek, formerly used as the feeder to the Genesee Valley Canal, and the construction of necessary bank protection was continued. Excellent progress was made during the season and the improvement is now practically completed.

BLACK RIVER CANAL IMPROVEMENT

The work of improving the Black River Canal, under authority of Chapter 564 of the Laws of 1918, was continued during the year 1920. To make possible the use of the locks reconstructed during the preceding year, dredging operations were had in the river sections between Lock No. 102, located south of Lyons Falls, and what is known at Whittlesey's Bridge; and from Glenfield north to and beyond the Otter creek lock.

No dredging plant having been available in the vicinity, suitable units were constructed by department forces. In the building of these units the necessity of transferring them elsewhere was had in mind. With this end in view, one of the dredging plants was comprised of two hulls, each 14 ft. x 75 ft. in dimensions, and when lashed together constituted a hull 28 ft. wide. The other outfit used consisted of a hull 14 ft. x 75 ft., which was equipped with two 8-ft. pontoons on either side. With the completion of the improvement, these outfits will prove valuable for use at other localities on the canal system.

In addition to excavating material from the river channel, considerable length of wall was built through the village of Lyons Falls, and bank protection placed in the vicinity of Otter creek and Beech's lock. It is expected that early in the coming season of navigation the entire project will have been completed, thus making the Black River Canal navigable as far north as Carthage, which was the purpose of the original act.

PRESERVATION OF GUY PARK HOUSE

By Chapter 582 of the Laws of 1920, the further sum of \$4,455 was appropriated for the repair, improvement and preservation of the building known as Guy Park House and the grounds adjacent thereto, located in the city of Amsterdam. The work covered by the appropriation had to do principally with interior improvements, including the installation of water, sewer and heating systems. The improvements were made by the forces of the department and have now been practically finished.

CONTRACTS ADVERTISED AND AWARDED

Below will be found statement of the various contracts on which the department has advertised for bids during 1920, with note of the action taken thereon:

Contract Number	Description	Bids Received	Amount of Award
	(Barge Canal Construction Work)		
204	Constructing a dam across the old Erie Canal at Lexington avenue, Rochester. Contract awarded to I. M. Ludington Sons, Inc., of Rochester N. Y.	March 12	\$4,500 10
194 Revised	For completing the excavation of the canal between Crocker's Reef and Fort Edward. Contract awarded to W. F. Martens, Rochester, N. Y.	April 20	37,114 00
202 Revised	For completing the excavation of the canal channel in the Genesee river and the placing of rock-spoil protection between Elmwood Avenue bridge and Clarissa Street bridge, Rochester. Bids rejected	May 18	.....
186	For constructing head gates at the north end of the dam at Baldwinsville. Bids rejected	Nov. 16	.....
S	For furnishing, testing and delivering electric beacon lights for Cayuga and Seneca lakes. Bids rejected	March 23	.....
	(Terminal Construction Work)		
19-P	For paving the terminal piers at Greenpoint and at West 53d street, New York city. Awarded to the Hastings Pavement Co., New York city	April 6	24,128 00
219	For constructing a terminal pier shed at Gowanus bay, Borough of Brooklyn, New York city. Awarded to the Snare & Triest Co., New York city	April 20	618,548 00

Contract Number	Description	Bids Received	Amount of Award
104	For electrical work and mason work at the Barge Canal terminal at Greenpoint, Brooklyn, New York city. Awarded to T. Frederick Jackson, Inc., New York city.....	May 18	\$17,293 00
224	For constructing a terminal freight house at Mott Haven, Borough of Bronx, New York city. Awarded to Post & McCord, New York city.....	July 20	150,486 25
28-A	For protecting the breakwaters at the Cleveland terminal. Awarded to Eugene Dawley, Cleveland, N. Y....	Feb. 10	13,260 00
71	For completing the Court Street approach to the Rochester terminal. Awarded to I. M. Ludington's Sons, Inc., Rochester, N. Y.....	Aug. 17	306,750 00
223-P	For installing plumbing and a water supply system at the Barge Canal terminal at Greenpoint, Brooklyn, New York city. Awarded to Thomas E. O'Brien, Inc., Brooklyn, N. Y....	Aug. 18	9,735 00
26-A	For completing the terminal at Rouses Point. Bids rejected	Sept. 9	.....
53-A	For constructing certain portions of the dock wall around Ohio basin, Buffalo. Bids rejected	Sept. 9	.....
76	For constructing storage yards at Erie basin, Buffalo. Awarded to Mohawk Dredge & Dock Co., Inc., Herkimer, N. Y.....	Sept. 9	22,520 00
114	Furnishing and installing two three-ton semi-portal revolving jib cranes on the Barge Canal terminal at Erie basin, Buffalo. Awarded to Heyl & Patterson, Inc., Pittsburg, Pa.....	Sept. 9	39,714 00
79	For driving foundation piles for the proposed grain elevator, for constructing a bulkhead wall along Henry Street slip, and for dredging the Henry Street basin at Gowanus bay, New York city. Awarded to Raymond Concrete Pile Co., New York city....	Oct. 13	428,268 97
80	For constructing concrete foundation piers for the proposed grain elevator on the Barge Canal terminal pier at Oswego. Awarded to Brown & Lowe and Law Bros., Schenectady, N. Y....	Oct. 13	336,412 00
26-A	For completing the terminal at Rouses Point. Awarded to Holler-La Du Corp., Albany, N. Y.....	Oct. 20	32,619 50

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Contract Number	Description	Bids Received	Amount of Award
229	For constructing the foundation of the proposed terminal freighthouse at Rochester. Awarded to New England Foundation Co., Inc., Boston, Mass...	Oct. 20	\$34,826 25
225-H	For installing a heating system in the Barge Canal terminal headhouse on Pier 93, West 53d street, New York city. Awarded to Austin Engineering Corporation, New York city.....	Oct. 26	4,875 00
225-P	For installing a plumbing system in the Barge Canal terminal headhouse and pier shed on Pier 93, West 53d street, New York city. No bids submitted..	Oct. 26	.....
53-A Revised	For constructing certain portions of the dockwall around Ohio basin, Buffalo. Awarded to Great Lakes Dredge & Dock Co., Buffalo.....	Dec. 14	435,000 30
(Under Special Legislative Acts)			
	For constructing the abutments and approaches of reinforced concrete bridge between the city of Schenectady and the village of Scotia, authorized by chapter 735 of the Laws of 1917, and chapter 634 of the Laws of 1919. Awarded to Dubois, Bennett & Son, Schenectady, N. Y.....	Feb. 10	234,593 00
	For constructing the piers of a reinforced concrete bridge over the Mohawk river between Schenectady and Scotia, being the continuation of the work last named above. Awarded to American Pipe & Construction Co. of Philadelphia, Pa.....	June 11	961,963 00
	Chapter 751 of the Laws of 1917 and chapter 339 of the Laws of 1918. For constructing a through plate girder bridge and the improvement of Limestone creek in the village of Fayetteville, Onondaga county. No bids submitted	Feb. 17	.....
	Chapter 751 of the Laws of 1917 and chapter 339 of the Laws of 1918. For constructing a through plate girder bridge and the improvement of Limestone creek in the village of Fayetteville, Onondaga county. Bids rejected	March 26	.....

TERMINAL CONTRACTS COMPLETED DURING THE YEAR

Contract No.	Date of Acceptance by Canal Board 1920
113	Feb. 18
207-P	Feb. 18
217	Feb. 18
207-H	March 3
217-P	March 17
223	March 17
109	May 5
203-P	May 5
19-P	June 23
57	Aug. 4
228	Aug. 4
117	Aug. 18
218	Sept. 3
38	March 17
112	Nov. 4
105	Nov. 17
55	Dec. 1
212-H	Dec. 15
102	Dec. 29
212	Dec. 29

BARGE CANAL CONTRACTS COMPLETED DURING THE YEAR

Contract No.	Date of Acceptance by Canal Board 1920
146	May 5
164	Feb. 18
117	June 2
201	June 2
204	June 23
152	Nov. 4
189	Sept. 3
194	Sept. 10
147	Nov. 4
190	Nov. 4
198	Nov. 17
T	July 21

SPECIAL CONTRACTS COMPLETED DURING THE YEAR

Description	Date of Acceptance by Canal Board
Construction plate girder bridge over old Cayuga and Seneca Canal, Lake St. Geneva. Chapter 351, Laws 1918.....	Jan. 21
Construction of concrete culvert at Eighteen Mile Creek, Lockport, Chapter 626, Laws of 1917.....	June 30
Constructing an eight-foot pipe culvert, across Barge Canal at Rome. Chapter 346, Laws 1918.....	Nov. 4

CONTRACTS ACCEPTED UNDER WALTERS' ACT, CHAPTER 585,
LAWS 1918

Terminal Contract 21.....	April 7
Terminal Contract 53.....	April 7

DITCHING

During the progress of the last canal improvement, drainage conditions in many localities throughout the State seem to have been seriously disturbed. Many claims have been filed annually for money damages based on the alleged filling up of previously existing drainage ditches or for interference with natural drainage facilities. Large awards already have been made by the Court of Claims on this account. Unless the cause of the trouble is removed, the State must respond annually in money damages besides depriving the property owners of the use of their lands. Many hundreds of acres are claimed to be unfit for cultivation and the situation has been made the basis of much complaints.

Up to the present time, this subject seems to have been denied the attention it deserves. Where the fertility of land has been wholly or partly destroyed by the progress of the canal improvement work, the State would seem to be under legal obligations to restore the use of it to the owner, and failing to perform that duty, must render proper compensation. Heretofore, remedies have been sought to be applied by a piece-meal method with the result that not only has the State been called upon to pay large sums in damages but much dissatisfaction exists among the citizens whose lands have been affected. The

more serious conditions exist adjacent to what is called the Sixty Mile Level of the canal between Rochester and Lockport.

In my requisition recently submitted to you for funds for the coming year, I have included an item of \$30,000 for the performance of work of this kind. With this sum available, it is planned to take up the whole subject in a thorough manner and discharge the obligations of the State as they may appear. I recommend that the amount asked be appropriated.

OLD ERIE CANAL FROM ROME TO MOHAWK

The subject of the unimproved Erie Canal extending from Rome to Mohawk has been presented for your consideration by this department during the past several years, and the conditions prevailing upon it have been described in considerable detail. Since so much discussion has been had and since by the enactment of the several statutes the situation seems to some extent to be a complicated one, I think it wise to set forth in this report the various steps taken so that full information may be before you for your use in the adoption of a definite policy.

In the enactment of chapter 147 of the Laws of 1903, known as the Barge Canal Improvement Act, it was assumed that with the completion of the new channel portions of the old canal paralleling the new route and not specifically retained would be abandoned for navigation purposes and sold pursuant to the provisions of the Public Lands Law. At any rate, such procedure has been followed. Before however the new route westerly to Rome was placed in commission, chapter 746 of the Laws of 1911 in referendum form was enacted, which authorized the issue of bonds for the furnishing of terminal facilities for Barge Canal traffic. In section 4 appears the following:

“The present Erie Canal between Rome and Mohawk shall be retained at not less than its present dimensions, and all structures, locks, bridges and docks thereon shall be maintained and operated by the State for terminal purposes.”

By such mandatory provision, a waterway some 30 miles in length and paralleling the main line of the improved Erie Canal

for much of the distance was continued for the use of the smaller and old type of boats. Junction locks were constructed at Rome and Mohawk to make connections with the main channel.

The execution of the plan directed in the Terminal Act was found to be impossible for physical reasons. No provision had been made for additional feeders of water to the 30-mile stretch of old canal, so that when the flow of the water from the west was shut off by the opening of the new channel, Oriskany creek, the sole tributary to the old level, was entirely inadequate to maintain a proper boating depth.

To meet the situation, chapter 346 of the Laws of 1918 was enacted. The construction of a dive culvert at Rome to conduct a sufficient volume of water into the old canal was authorized, with the condition that of the total cost involved of \$50,000 a share to the extent of \$30,000 should be borne by parties interested in the project and the balance by the State. Such contribution was made and the building of the culvert has been progressed to completion during the present year but not in sufficient time to permit of its use.

Such construction was directed in spite of the fact that in the previous year the Senate and Assembly had adopted a concurrent resolution proposing an amendment to section 8 of article VII of the Constitution, removing the prohibition as to the sale or other disposition of canals from

“that portion of the existing Erie Canal in the City of Utica between the westerly line of Schuyler Street and the easterly line of Third Street, provided that a flow of sufficient water from Schuyler Street to Third Street to feed that portion of the Canal east of Third Street be maintained.”

The proposed amendment was in due course duly adopted and is now a part of the Constitution. By it, the filling in of the canal between the streets mentioned was authorized and when such work is actually accomplished, the use of the 30-mile stretch will be destroyed for practical commercial purposes.

During 1919, at the insistence of citizens of Utica, proceedings were had looking to the formal abandonment for navigation purposes and sale of the area between Schuyler and Third streets

Public hearings were had by the Canal Board at which the abandonment of the whole section was urged. While the State Engineer and Surveyor and myself submitted to the Canal Board the required statutory certificates with respect to the Schuyler and Third street section, it was found that the Canal Board had no legal authority to abandon for canal and terminal purposes the whole 30-mile stretch between Rome and Mohawk, inasmuch as its retention had been directed by the provisions of the Terminal Act; and that even as to the section between Schuyler and Third streets specifically referred to in the constitutional amendment, it appeared that such amendment merely gave the right to the Legislature to amend or repeal that section of the Terminal Act which provided for the retention of the canal. No action therefore was taken by the Board in the way of official abandonment.

The subject was again before your Honorable Body during the session of 1920. Instead of amending the section of the Terminal Act as referred to above and making provision for the abandonment and sale of the canal lands between Schuyler and Third streets in accordance with the provisions of the Public Lands Law, the city of Utica by chapter 744 was authorized to lower or remove any or all of the three bridges existing over the canal in the area referred to. The act also authorized the construction by the city of a conduit in the bed of the canal between such points of sufficient capacity to maintain the flow of water.

This statute has been interpreted to be in the nature of a direct legislative permit for the performance of the work and the city has undertaken its progress. The work already done constitutes a physical, if not an official, abandonment for navigation purposes of the canal in Utica.

Your Honorable Body at the same session also adopted concurrent resolutions suggesting further amendments to the State Constitution, dealing with the situation, which amendments are in the nature of alternative propositions.

The first proposes to except from the provisions of section 8 of article VII any prohibition against the sale or disposition of the existing Erie Canal "in the county of Herkimer between the easterly portion of the village of Mohawk and the county boundary

line between the counties of Herkimer and Oneida." The second applies to the entire stretch of old canal between Rome and Mohawk.

Both suggested amendments will come before you at the present session for further action and the one that shall receive your approval will be submitted to the People at the general election in 1921. I earnestly request that definite and final action be immediately taken. The whole situation has become an impossible one, both from a physical and legal standpoint. With the improved canal in full commission and a well-equipped harbor for traffic at Utica, I see no important commercial purpose to be served in attempting to maintain navigation on a stretch of waterway which not only is insufficient in size to admit boats ordinarily plying the main canal, but which by reason of the closing of the Schuyler-Third street section is impossible for use for its entire length.

I therefore recommend that such action be taken by your Honorable Body at your present session as will ultimately result in the abandonment of the whole project of maintaining the old Erie Canal between Rome and Mohawk.

USE OF SURPLUS CANAL WATERS FOR POWER PURPOSES

In reports of the department submitted to your Honorable Body during the several preceding years, the subject of surplus waters existing along the canals has been thoroughly discussed, and the location of the same has been pointed out to you. In presenting the matter again, I desire to emphasize the necessity, from the standpoint of the State's interests, of the enactment of such legislation as will lay down a definite and precise method for the disposition of the same. In the absence of statutory provisions, the subject is a difficult one to handle.

As indicated to you in my report for 1919, water power exists along the canal at some 17 different points, and it is proper that provision should be made for such disposition of the same as will not affect the navigation interests. Legal action looking to the sale or lease of water power created by the Barge Canal construction is now impossible, owing to the prohibition contained in section 16 of chapter 147 of the Laws of 1903, as amended

by chapter 494 of the Laws of 1907, which forbids the lease, sale or other disposition of any of the surplus waters created by the canal improvement until "authorized by statute setting forth specific conditions and restrictions governing the same." Such absence of authority has tended to retard and discourage industrial development along the line of the canal, in that any permits that might be given by the department are without statutory sanction.

The enactment into law by the Congress of the United States of the so-called Federal Water Power Commission Bill constitutes a further and most important reason why the adoption of a State policy on the subject should no longer be delayed. Under the Federal statute all applicants for licenses for the use of water power must first comply with State laws applicable to the subject. The undoubted purpose of this condition was to insure some measure of protection to the interests of the State over waterways within its borders. Already the Federal Water Power Commission has under consideration the granting of a license authorizing the development of water power at the dam constructed across the Hudson river at the city of Troy. Such structure being located on a river wholly within our borders, the State of New York possesses inherent rights in the surplus waters created by it, and it would be a matter of deep regret if any such rights were impaired or denied by the lack of a definite State policy.

FEDERAL JURISDICTION OVER NAVIGATION OF THE STATE CANALS

During the season just closed, further action was taken by officials of the United States to assert Federal jurisdiction over navigation of the State canals. In one case, a penalty was imposed on a vessel owned by the State itself and operated in connection with the performance of work authorized by the Legislature. Instances also have occurred where privately owned craft have been subjected to the same action.

The Secretary of Commerce, in whose name the orders referred to have been issued, evidently relies for his authority on certain provisions of the United States Revised Statutes which have to do with the construction, equipment, inspection and licensing of steam vessels "using the navigable waters of the United States;"

and since the New York State canals constitute by themselves and by uniting with other waters a continuing highway over which commerce may be carried on with other states or foreign countries, it has been held that they come within this classification. Under such ruling, the waterways left under State control would be limited to the small inland lakes having no connection with the canals and which are used mainly for pleasure resort purposes. As I understand it, all steam or motor vessels plying the canals whether used in interstate commerce or not and whether carrying passengers or freight for hire or not are subjected to the ruling.

To my mind, this condition is directly opposed to the theory of canal construction and improvement in this State and is contrary to its basic law and its statutes. It cannot fail to create confusion in the minds of prospective users of the canals who have relied on the State's control of them and must seriously interfere with the development of commerce.

The provisions of the State Constitution are plain on this subject. In section 3 of article V, after providing for the appointment of the Superintendent of Public Works, it says:

“He shall be charged with the execution of all laws relating to the repair and *navigation of the canals*, and also of those relating to the construction and improvement of the canals, except so far as the execution of laws relating to such construction or improvement shall be confided to the State Engineer and Surveyor; subject to the control of the Legislature, *he shall make rules and regulations for the navigation or use of the canals.*”

In section 8 of article VII, it is further provided:

“* * * but they (the State canals) shall remain the property of the State and *under its management forever*”
* * *

For the purpose of carrying into effect such constitutional provisions, chapter 13 of the Laws of 1909, known as the Canal Law, in section 33 provides that

“The Superintendent of Public Works shall: have the general care and superintendence of the canals; enforce the faithful execution and observance of the canal law by all persons

* * *; *make all necessary rules and regulations for the safe and speedy navigation*, protection and maintenance of the canals and the structures thereof, for the government of employees under his control engaged in their construction, improvement, repair and *navigation*, and for the payment for tools, material and labor, impose such forfeitures of money not exceeding the sum of \$25.00 for each offense as he deems reasonable and for the breach of such rules and regulations prosecute therefor in the name of the State and pay over moneys received on such prosecution into the State treasury * * *."

Chapter 42 of the Laws of 1909, known as the Navigation Law, also deals with the subject of navigation on State waters. The appointment of inspectors of steam vessels is authorized, whose duties include the inspection from time to time of every vessel engaged in carrying passengers or freight for hire or towing for hire on the inland waters of the State. Complete rules and regulations for the management, operation and equipment of vessels and for the safety of traffic, substantially similar to those adopted by the National government, are contained in the law.

There is no doubt that the plain intent of the Constitution and the statutes is to vest in the Superintendent of Public Works full authority over the canals, the single condition being imposed that the rules and regulations he shall make for their navigation should be "subject only to the control of the Legislature."

With the application of Federal laws to canal navigation, the powers conferred upon the Superintendent of Public Works are nullified and he is without means to perform the duties assigned to him. The right of the State to control its own waterway system is denied. The Erie, Oswego, Champlain, Cayuga and Seneca canals become merely "navigable waters of the United States."

Since both the Federal and State regulations are for the protection of commercial interests and the safety of persons or property transported, it is of course immaterial which set of rules are enforced. As a matter of fact, they are almost identical. The underlying principle of control is all-important. If the authority of the National government to regulate and control navigation

is admitted or acquiesced in by the State, it is a logical consequence that many acts of the Superintendent of Public Works having to do with the maintenance or improvement of the waterways will require the approval of the Federal authorities. This is not a far-fetched conclusion. A proper exercise of authority to control and regulate navigation on any waterway must necessarily be coupled with the power to approve or disapprove any work on such waterway which might in any way affect navigation interests. The right of the Federal engineers to pass upon the Department's plans for construction or repair work could not be denied. Then too, since navigation depends almost entirely on the manner in which the locks and movable bridges are operated, it is not beyond the bounds of possibility that directions for the management of those structures might be forthcoming from Washington. In the last analysis the State would be left only with the privilege of paying the bills.

I cannot believe that such a situation as this was intended. It is repugnant to every theory that has actuated the citizens of the State in the expenditure of large sums of money in constructing and improving their canals. Even now without large annual appropriations from the State treasury for maintenance and repair, the water route would soon be incapable of use.

A year ago, I presented this subject for your consideration and what I have said above is somewhat of a repetition of the statements contained in my previous report. No action however has been taken. I believe that every means at the command of the State and of the State's representatives in Congress should be exerted to the end that those United States statutes which are relied upon by the Secretary of Commerce to permit of his entrance into the canal field be amended so as to except the State's waterway system from their provisions.

ICE GORGES IN THE HUDSON RIVER

The duty of removing, opening up, breaking or destroying ice gorges or blockades of ice in the Hudson river south of Troy, was placed upon the Superintendent of Public Works by chapter 312 of the Laws of 1910, the act having been passed following a

severe freshet which had resulted in damage to property in the cities of Albany, Troy and Rensselaer.

Since that time conditions existing along the river have been carefully studied by the Department. It was found that for a distance of probably 20 miles southerly from Albany there exist a half dozen points at which ice gorges may form, and the continued presence of a gorge at any one of those several places might create serious freshet conditions at Albany and adjacent places.

While gorges have formed in the past ten years, not one has caused any serious damage during that period. As a matter of fact, the existence of high water in the streets of Albany, Rensselaer, Troy and Watervliet is not due to this cause alone. The records show that when the most severe flood conditions have prevailed the river was free of ice. However, ice gorges in the river below Albany, when they do form, must always be regarded as a menace and possessing elements of potential harm.

I fully agree with my predecessors that the clearing of the Hudson river of these dangers is a matter for action by the United States authorities rather than by the State. The Federal authorities have asserted their jurisdiction over the river, and have performed necessary dredging and bank protection work therein. Should it become necessary in the taking of measures to break up the ice, to remove any government dike or other structure, the permission of the United States Engineers would first have to be obtained. Nevertheless, the obligation remains with the Department under the statute referred to, and all feasible plans of effective operations have been considered. To absolutely guarantee freedom from high water is an impossible task, unless by the constant use of large and powerful steamers the ice was prevented from assuming any considerable thickness. This is not practicable, not only on account of the immense area to be covered and the interference with ice harvesting industries, but also for the reason that the State has not under its control plant which could be utilized effectively for that purpose.

Two methods only have appealed to me as promising substantial results. The first includes the chartering of one or two steam tugs of the river type and of a size and equipment as nearly

suitable for ice breaking work as may be secured, and the wintering of the same at such place along the river as will be below the most southerly point of possible danger; and when conditions have become ripe for action, to endeavor to destroy any gorge that may have formed by the use of such steamers. The execution of such plan may prove impossible, if, as it frequently has happened, field ice of considerable thickness exists for many miles below the obstruction. The other plan includes the use of dynamite. Explosives, however, are of service only in restricted areas and when open water in sufficient extent is available to permit of the passing down of the broken masses.

As a matter of fact, without the presence nearby of ice breakers especially designed for the exact nature of the work to be performed, it is always possible that conditions may prevail with which the Department may be unable to cope. However, with the equipment at hand, the Department is prepared to take such action as may be possible. Each winter the situation has been kept under close observation, and the State forces have held themselves in readiness to attack any gorge that may form, the method to be followed depending on the exact conditions which may then prevail.

NECESSARY ELEMENTS OF EFFICIENT CANAL MANAGEMENT

SKILLED AND PERMANENT FORCE REQUIRED

With all the construction problems connected with the great canal and terminal projects solved, and the whole plant now presented to the public for commercial use, the question of securing and retaining a competent maintenance and operating organization is one which requires the deepest attention and consideration. The importance of this cannot be minimized. The canals always have been regarded as the State's chiefest business institution, and must be administered along business lines. They were constructed, and enlarged again and again solely in the interests of commerce. The cost of construction and maintenance has been large. The value of the structures now in place is vast.

If the citizens of the State are to receive adequate return for their immense investment, it is essential that the selection of

the canal working force must be based solely on merit and fitness, and a tenure of office assured. The interests of those using the State's waterways and who have invested their capital in canal enterprises demand the highest degree of efficiency on the part of the department's officials. However perfect the channel and its structures may be from a construction or engineering standpoint, the waterway cannot become an important instrumentality of transportation unless it remains in the hands of a skilled organization of at least some permanency.

APPLICATION OF CIVIL SERVICE PRINCIPLES

Whether the canal shall be deemed a competitor of the railroad, or as a feeder or supplementary to it, its forces must be organized along similar lines and the same principles of management must be applied. Long steps already have been taken in this direction. Up to twenty years ago the canal system was accepted as a legitimate field for political manipulation. With each changing administration those in charge of the maintenance and operation gave way to others who in turn were displaced later.

With the application of the provisions of the Civil Service Law, the work of the department has become less and less subject to political conditions. Even before the enlarged canal was placed in commission, the necessity of this was recognized. Without serious objection from any source, many positions which had to do with the care and operation of the more important structures have been classified in the competitive schedule.

The manning of the new Barge Canal locks, with their elaborate operating machinery, was accomplished entirely through appointments from eligible lists established after open competitive examinations. With the assurances provided by the Civil Service Law that continuance in office depended solely on efficiency and merit, young men skilled in the various mechanical trades were attracted to the service. In no other way could the department have secured the large number of trained men required.

During my own term of office the same principle has been applied. Many additional positions requiring skill, watchfulness and judgment on the part of the incumbents have been

brought within the competitive schedule of the Civil Service. To secure and retain a competent working force, some degree of permanency must be assured. It is obvious that ambitious and industrious young men will decline to engage in any work where their tenure of employment will depend largely upon political conditions of their home localities, especially when the industrial world offers better inducements.

The operation of the many lift bridges spanning the canal is second in importance only to the care of the locks. In the case of the former, the safety of highway traffic is at stake. The operating machinery requires the attention of clear headed men having special aptitude to work of this kind, in order that accidents will be prevented and the State's interests guarded. This class of employees is offered as an important instance only, as a review of all the positions in the department above the grade of labor will present reasons for permanency equally as good.

CIVIL SERVICE POLICY SHOULD BE CONTINUED AND EXTENDED

As I have stated before, the management and operation of the State's canal system is akin to that of a great railroad corporation. In the canal enterprise, the people of the State themselves are the stockholders, and the elected officials having to do with the waterways are in a sense the Board of Directors. Those interested in a large industry, demanding a fair return for moneys invested, would indignantly reject any plan looking to the dismissal of trained and efficient employees every year or two, and yet this to a more or less extent is the actual experience had in the case of the waterways.

While perhaps it is a subject for departmental rather than legislative consideration, I feel it my duty to thus place on record my views in this matter. My experience with the canals has been twofold. As a practical canal operator for many years, the defects in the employment system were keenly realized; and later, having been placed at the head of the department, and being charged with the responsibility for the successful maintenance of navigation, I had opportunity of gaining firsthand knowledge of the difficulties in the way of securing and retaining a complete organization of skilled and earnest workers. In the interests of commerce the entire operating force must be eliminated from the

domain of politics. When questions of canal improvement and enlargement were presented to the people for approval, all political parties of the State loyally gave their support. The continued maintenance of the waterways has become the accepted permanent policy of the State. This being so, I am confident that the application of strict business principles to management and operation, now that it has become absolutely necessary in the interest of commerce, would meet with universal approval.

In what I have said, I do not wish to be considered as intending a wholesale criticism of men selected for service in the department by other means than that of competitive examination. On the contrary, many of those appointed largely for political reasons were among the most conscientious and industrious employees, and my most loyal assistants. My only thought is to provide some degree of protection for efficiency wherever it is found to exist, and to instill in the mind of every employee along the canal that the term of his employment depends solely on his personal fitness for the job he holds; and conversely, that attention to duty and loyalty to the interests of the canal are essential to his continued employment.

In this public manner, I submit the subject to the attention of my successor in office with the hope that he will recognize the necessity of such further extension of the policy already in effect as will ultimately result in placing all employees along the canal within the competitive Civil Service class.

TERM OF OFFICE AND METHOD OF APPOINTMENT OF SUPERINTENDENT OF PUBLIC WORKS

What I have said with regard to the necessity of some permanency of employment for those in the field and operating organizations applies with equal force to the head of the department. As a matter of fact, the root of the trouble may be here, and this is the place where the remedy should be applied. From a legal standpoint, the tenure of office of the Superintendent of Public Works is no more definite than that of a canal bridge tender in that he is appointed for no specific term and holds office at the pleasure of the Governor.

In a discussion of this peculiar but actual condition, it is interesting to trace the development, or as one might say, the evolution which has taken place in canal management and to mark the successive plans adopted by the people. The construction and maintenance of a waterway from the Great Lakes to the sea was not only a tremendous accomplishment on the part of the young State but also a positive innovation in governmental activity. The record discloses a series of experiments in canal administration and bears witness to the endeavors of the people to secure what might become the most efficient method of control.

PREVIOUS METHODS OF ADMINISTRATION

With the completion of the original construction work, we find the system placed in charge of five commissioners, constituted and appointed by chapter 237 of the Laws of 1816. This was continued until 1821 when chapter 36 of that year added another commissioner.

Only seven years had elapsed when the need of a change was recognized, and in 1826, by chapter 5 of the Revised Statutes, the number of the canal commissioners was reduced to four with the condition that two of them should be "acting" commissioners.

Again and in 1833, the organization was considered imperfect, when chapter 80 increased the number of commissioners by one. In 1836 pursuant to chapter 451, still another was added making the total number of canal commissioners at this time six.

Eight years passed before further reorganization was had. Chapter 280 of the Laws of 1844 reduced the commissioners to their previous number of four, and provided for their election by the people at large, with the direction that three should be known as "acting" commissioners. In the following year, chapter 6 made still another change by which the elected canal commissioners should designate how many of their number, not less than two nor more than three, should be "acting" commissioners.

At the adoption of the State constitution in 1846, the commissioners were reduced in number to three, to be elected by the people with a term of office of three years, a vacancy occurring each year.

OFFICE OF SUPERINTENDENT OF PUBLIC WORKS CREATED

For more than 30 years, the three-headed commission was in charge. As the years passed, dissatisfaction with their administration arose, but having been created by constitutional enactment, a change was not as readily effected, as in the past when legislative action only was required. Without going into detail relative to the causes leading to the demand for reorganization, it is sufficient to say that the agitation for reforms finally resulted in the enactment by the Legislature of laws recommended by Governor Tilden in 1876; and at the general election in November of that year, the people by a large majority approved an amendment to the constitution placing the canals in charge of a single official to be known as the Superintendent of Public Works. The first superintendent of public works took office on February 8, 1878. Since that time, canal affairs have been administered without important change in method, the constitution of 1894 continuing the office as theretofore constituted.

TERM OF OFFICE BRIEF AND INDEFINITE

While the last named scheme of canal management has without doubt accomplished better results than any heretofore tried, the time has come when still further improvement should be secured. I refer especially to the lack of a definite tenure of office and to the matter of frequent changes.

Section 3 of article V of the State constitution provides that the Superintendent of Public Works who shall be appointed by the Governor, by and with the advice and consent of the Senate, shall hold his office until the end of the term of the Governor by whom he was nominated and until his successor is appointed and qualified. It also says:

“He may be suspended or removed from office by the Governor whenever in his judgment the public interests shall so require; but in case of the removal of such Superintendent of Public Works from office, the Governor shall file with the Secretary of State a statement of the cause of such removal and shall report such removal and the cause thereof to the Legislature at its next session.”

In other words, the Superintendent of Public Works may be removed from office by the Governor at any time and for any reason that to the Governor may seem sufficient. In short, his tenure of office is solely at the Governor's pleasure.

Such a provision as this in the basic law of the State can only be regarded as an echo of political incidents of the nineteenth century. From their first construction, the canals were regarded as the battlefield of politics. Campaigns were won and lost on the success or failure of the canal administration. This thought doubtless was had in mind in 1876 when in placing the system under a single head it was provided he should hold office at the pleasure of the Governor. It was the opinion at that time that the record of the canal department would be the most important factor in the success of the Governor's administration.

The situation has changed since those days. As I have pointed out above, the State's waterways are gradually but surely coming to be recognized as a purely business institution, demanding the eradication of all elements except those tending to commercial success.

SUCCESSFUL ADMINISTRATION HANDICAPPED

Aside from the matter of freight transportation, the interests intrusted to the Superintendent of Public Works are of vast extent. Millions of the State's moneys are dispensed by him annually. Questions of enormous importance are presented to him for decision, and the very nature of his work demands a continuance in office for a specific term of reasonable duration. An efficient conduct of the department's affairs requires the services of a broad-minded executive who has had experience in dealing with important questions of the nature of those which almost daily present themselves, and the securing of one possessing those qualifications will be more easy of accomplishment if the term of his employment is made definite.

At present, assuming that the Superintendent of Public Works will remain in office to the end of the term of the Governor appointing him, it is possible that his service will be limited to two years. But a small portion of that time can be devoted to

the execution of the policies which in his judgment seem best for the protection and furtherance of the State's interests. More than half of the first year will have elapsed before the new Superintendent has acquainted himself with the vast property under his charge, with the important interests he must guard and as to the actual working out of the policies of his predecessor. Even when his own plans have been definitely determined upon, the process of effecting important changes necessarily must be gradual and slow, with the result that the navigation season of the second, and perhaps last, year of his term is well under way before the newly adopted policies are even in operation.

Since gubernatorial elections take place biennially, the Superintendent of Public Works is confronted with the end of his term of service with his work only fairly started, and without having had sufficient opportunity to demonstrate the soundness of the principles he has just begun to apply. Should a change occur in the office of the Chief Executive of the State, whether it be in the same political party or another, or whether it occurs in the midst of a term, the Superintendent of Public Works must be prepared to vacate his place in favor of the new Governor's selection, and the new Superintendent of Public Works takes up the work faced with the same conditions. Whatever ability, training and experience the man newly appointed to the office may possess, and however masterful his personality, it is not within the scope of possibility that he may be assured of having accomplished lasting good in the brief time at his disposal.

The situation is an impossible one. It not only seriously retards the development of commerce on the State's waterways, if in fact it does not actually prevent it, but it also makes impossible a continuity of action with respect to other important canal matters, and results in detriment to many people whose interests have direct relation to established State policies.

RECOMMENDATIONS

The term of office of the Superintendent of Public Works should be made by statute fixed and definite. Five years' time would be none too long. Like other State officers, he should be

subject to removal before the end of his term only upon stated charges and after a public hearing. So far as may be possible under our present party system of government, the office should be removed from the realm of politics. The interests of this great canal system, now becoming recognized as a strictly business enterprise on the part of the State, are too important to be made a stake in the political battles waged every second year.

Besides recommending to your Honorable Body such amendment of the Constitution and the statutes as will provide a term of office for the Superintendent of Public Works of at least five years, I desire to go a step further. In the selection of the man in whose hands the canal affairs will be placed, I believe that the voice of the business interests of the State should be heard. This would be no innovation in State affairs. Indications are present that a similar course has been followed not only in the case of the canal itself but in other State matters as well. Civic and commercial organizations with the interests of their respective communities bound up in the success of the waterways have at all times kept closely in touch with them. All of the movements for canal enlargement and reforms have originated with the business men of the State, and the Legislature at all times has hearkened to their suggestions and has been guided by their advice.

During the early canal days when the commissioners in charge were specifically named in the Acts creating the offices, it is fair to assume that the selections made were based on suggestions of the commercial interests of those times. In the agitation of 1875-1877 for canal reforms, the business organizations took a foremost part. Conferences were held at which were present representatives from many commercial organizations. Resolutions were adopted and submitted to the Legislature dealing with the conditions which then existed and urging canal reorganization along specific lines. The action later taken by the Legislature in principle followed those recommendations.

The solution of the problems now facing the State government demands expert advice, and in a business matter of such magnitude as the conduct of canal affairs constitutes, it is but logical

that the views of those qualified to speak for the State's commercial interests should be secured.

I, therefore, further recommend that such legislation be enacted as will in effect vest in the recognized business agencies of the State authority to nominate the official to be charged with the administration of the State's canal system. In no other way can the removal of canal affairs from the influence of political exigencies of the moment be actually and practically accomplished.

THE PRIZE LOCK

The distinction of being the prize lock for the season of 1920 was conferred on Lock No. 11, of the Champlain Canal, located at Comstocks, Washington county, which is the second time this structure has gained the prize.

Honorable mention was given to the following locks in the order in which they appear: Lock No. 25, Erie Canal; Lock No. 4, Cayuga and Seneca Canal; Locks Nos. 1, 7 and 6, Champlain Canal and Lock No. 15, Erie Canal.

In deciding the competition, the basis of percentages used were as follows: For perfect condition of machinery, 60 per cent.; for appearance of grounds, 20 per cent.; and for appearance of power houses, 20 per cent.; making a total of 100 per cent. All of the locks above named obtained a percentage of more than 97. Practically all of the structures showed evidence of the painstaking work done by the lock forces. In every case, the State's property was maintained in a high degree of efficiency.

In addition to having the privilege of erecting a sign proclaiming it to be the prize lock for the season, the members of the winning crew were granted small increases of salary to be held by them until the close of the next year's contest.

The record of prize locks is now as follows:

Year	Lock No.	Canal	Location
1915.....	28-B	Erie	Newark
1916.....	11	Champlain	Comstocks
1917.....	8	Champlain	Fort Edward
1918.....	8	Champlain	Fort Edward
1919.....	4	Cayuga and Seneca	Waterloo
1920.....	11	Champlain	Comstocks

BUREAU OF THE INSPECTION OF STEAM AND
MOTOR VESSELS UNDER THE NAVIGATION LAW

The work of the two inspectors appointed under the provisions of the Navigation Law, known as Chapter 42 of the Laws of 109, includes the inspection and licensing of vessels used on State waters for the carrying of freight and passengers for hire or towing for hire and the examination and licensing of the operators of them.

During the year, 211 vessels were inspected of which 28 were steamers and 183 motor boats. In the case of 12 vessels, certificates were withheld pending the making of necessary repairs or the supplying of needed equipment, and in those instances, all but four certificates were finally issued.

A total of 273 personal licenses were issued, being made up of 21 masters' licenses all of which were renewals; 18 licenses to pilots of which 6 were original and 12 renewals of former licenses; 47 engineers' licenses, 5 being of original issue and 42 renewals; and 187 joint pilot and engineers' licenses, 57 having been originals and 130 renewals. The amount collected by the Inspectors in accordance with the fees prescribed by the Navigation Law, was \$2,257.50.

On July 6th, the steamer "Sagamore" on Lake George collided with a row boat in Kaatskill Bay situated between Rockhurst and Cleverdale landings. The row boat was demolished by the paddle wheel of the steamer and the four occupants, all women, were thrown into the water and before assistance arrived, two were drowned. An investigation was had by the inspectors so far as the application of the provisions of the Navigation Law was concerned, but no grounds were found sufficient to require the revocation of the license of the pilot on watch at the time of the occurrence.

The compensation at present received by the two inspectors of steam vessels is the same as that fixed in the original Navigation Law enacted in 1897, nearly twenty-four years ago. In order that the services rendered may be more adequately compensated, I recommend that the statute in question be amended so as to make provision for the payment of an increased rate to these officials.

BUREAU OF APPRAISAL AND CLAIMS

During the year 1920, 158 claims were filed against the State on account of the canals, with a total of \$1,278,671.11. Of these, 119, with an aggregate of \$1,070,426.11 were based on causes connected with the Barge Canal improvement work; three, with a total of \$61,423.32, had to do with terminal construction and the remaining thirty-six, with an aggregate amount of \$146,821.68, covered damages alleged to have been sustained from the maintenance and operation of the old canal system.

The Barge Canal claims filed during the past year may be subdivided as follows: By contractors for alleged breach of contractual relations, three claims, with a total of \$822,718.60, in which is included the claim of the M. A. Talbot Company, holding what was known as Contract No. 43, the amount of this claim alone being \$814,450.03; for overflow of Genesee River, thirteen claims, with a total of \$9,451.49; and for leakage and overflow along the line of the new canal, eighty-nine claims, aggregating \$238,256.02.

Trial was had before the Court of Claims in the case of 106 claims on account of the Barge Canal improvement work, and against the total of \$3,209,885.83 asked by the claimants, awards to the amount of \$1,841,438.41 only were secured. In addition, fourteen claims, aggregating in amount \$2,726,352.27 were tried, but in these no decisions have as yet been reached.

Three claims growing out of the terminal work, with a total of \$27,379.31, were also tried, and awards were made in the case of two to the extent of \$8,692.20. Decision in the case of the third claim is still awaited.

In the case of thirty-nine Barge Canal claims, amounting to \$1,256,790.95, and three terminal claims, totaling \$158,180, dismissals were had with no recovery whatever to the claimants; and of the nineteen claims arising from causes due to canal maintenance and operation and amounting to \$35,787.57, the awards were \$14,300.09 only.

On four similar claims, totaling \$13,194.25, the result of the trials has not as yet been announced. There were dismissed by

the court, without recoveries, seventy-three old canal claims, on which \$153,051.53 had been asked by the claimants.

Of the claims disposed of during the past 12 months, the more important were those of railroad companies covering compensation for enforced rebuilding of railroad bridges over the canal system. In all these cases, bridges had been in place of a type and dimensions suitable for navigation conditions existing at the time of their building. By reason of the fact that the Barge Canal improvement plans provided for a minimum width of channel of 75 feet and a minimum clearance of 15½ feet underneath fixed bridges, radical changes in the railroad crossings were necessary. The structures were entirely rebuilt or greatly altered.

At the time the canal enlargement was authorized, it had been assumed that all cost and expense involved in altering railroad bridges to meet the new requirements would be borne by the railroad companies themselves. On presentation of the facts to the court however a contrary decision was reached, and as a result the entire expense of modifying or rebuilding bridges carrying railroads across the canals was made a charge against the Barge Canal moneys. The only issue left undetermined was as to the amount to be paid. I refer particularly to the decision of the Court of Appeals rendered May 20, 1919, in the action of the Oswego & Syracuse Railroad Co., and the Delaware, Lackawanna & Western Railroad Co., against the State of New York, Justice Cardozo writing the opinion.

That the running of interest charges might be stopped promptly, every effort was exerted to reach final settlement and at the same time secure to the State all proper off-sets. In arriving at the final amounts, the State was credited with certain improvements or betterments to the original construction and also the value of the use of embankments or lands connected with the abandoned canals was computed as provided by Section 5-A of the Barge Canal Act.

In this manner it was possible to reduce the total of this class of claims from \$2,828,437.54 to \$1,733,118.45. In the following list will be found information in detail relative to these settlements:

FOR RECONSTRUCTION OF RAILROAD BRIDGES:

CLAIMANT	Location of bridge	Amount claimed	Amount awarded
New York Central R. R. Co.	Brewerton.	\$139,300 00	\$109,385 14
New York Central R. R. Co.	Schenectady.	138,843 00	138,477 63
New York Central R. R. Co.	East of Lyons.	161,700 00	149,251 41
New York Central R. R. Co.	West of Lyons.	166,877 43	166,877 43
New York Central R. R. Co.	Pittsford.	574,205 27	158,458 84
New York Central R. R. Co.	Cayuga.	465,174 08	422,183 53
New York Central R. R. Co.	North of Cayuga.	201,095 00	148,114 71
West Shore R. R. Co.	East of Lyons.	92,000 00	91,934 41
West Shore R. R. Co.	West of Lyons.	53,328 02	53,328 02
West Shore R. R. Co.	Pittsford.	727,830 91	200,000 00
Elmira & Lake Ontario R. R. Co.	Newark.	52,324 82	35,249 07
Lehigh Valley R. R. Co.	East of Geneva.	66,310 64	53,334 14
Lehigh Valley R. R. Co.	East of Geneva.	41,773 19	41,773 19

Other important claims which were disposed of included the following:

CLAIMANT	Cause of action	Amount claimed	Amount awarded
Ansel J. Clark et al.	Appropriation of quarry land.	\$20,000 00	\$7,600 00
Katherine A. Allen et al.	Appropriation of quarry land.	21,006 80	4,000 00
Matthew A. Ryan et al.	Appropriation of quarry land.	28,000 00	1,100 00
Ansel J. Clark et al.	Appropriation of quarry land.	87,179 70	11,400 00
Holland-Dale Garden Co.	Overflow Clyde river, on Contract 46.	22,201 50	6,265 00

Trial has been had in the following claims but no awards have as yet been announced:

CLAIMANT	Cause of action	Amount claimed
Waterford Electric Light, Heat & Power Co. .	Appropriation of land and riparian rights on Contract 71-A.	\$1,251,084 50
Fort Orange Construction Co.	Extra work on Contract 11.	432,020 05
Robert Wetherill as Receiver.	Extra work on Contract 20-D.	430,511 61
Percy Jackson, as Trustee.	Extra work on Contract 40.	563,652 26

The above is intended to be a brief reference merely to the important work with which this Bureau has had to do. The small proportion which the awards secured bears to the amounts of the claims gives evidence of the painstaking investigations made and the efficient work performed in the defense of the State. Every incident occurring along the line of the canals which might possibly form the basis of a claim was noted and thorough investigation made immediately of all the surrounding conditions. It is significant to note that with the adoption and execution of the

policy of immediate investigations, the number of unworthy claims has dwindled practically to nothing. The knowledge having become general that no claim without merit could withstand the scrutiny of a Bureau possessed with accurate and fresh information concerning all the circumstances sought to be used as a foundation for the action, the filing of claims not based on just grievances has been discouraged, if not actually prevented. At all times the Bureau has been ready to place at the disposal of the Attorney-General complete information concerning any claim whose trial might be desired. When the day of trial was reached, a representative of the Claims Bureau was in daily attendance at court following the proceeding in all its stages and rendering constant aid to the State's attorneys.

Claims which had been long in the files of the Bureau were brought to light and every opportunity given the claimant to have the question at issue finally decided. To those claims which bore interest against the State, especial attention was given and vigorous action was taken to clear them from the calendar.

In addition to the assistance rendered by the Bureau in the preparation of the defense against claims, the Bureau has under its charge the appraisal of property taken for canal improvement purposes. In each instance, examination of the property has been made on the date of its acquisition by the State. Every effort was exerted to reach fair and prompt settlements with the owners. In these cases, agreements with a total of \$88,236.56 have been made during the year. They covered 65 separate parcels of land on 21 different contracts.

The Bureau as at present organized has shown itself to be a splendid instrument for the protection of the State's interests. At the same time, each citizen who may have suffered damage by the State's canal operations has been accorded fair and reasonable compensation for his loss. The record made during the past two years has been a splendid one.

ADDITIONAL DUTIES OF SUPERINTENDENT OF PUBLIC WORKS

In addition to the matters previously referred to in this report, the Superintendent of Public Works has been active during the

past year in connection with the performance of duties assigned to him by special acts of the legislature, constituting him a member of several commissions. These were as follows:

Member of the commission created by Chapter 806 of the Laws of 1920, to represent the State of New York at hearings before the International Joint Commission on Boundary Waters between the United States and the Dominion of Canada, with special reference to the project of improving the St. Lawrence River between Montreal and Lake Ontario to make the same navigable for ocean-going vessels.

Member of the Board of Conference created by Chapter 586 of the Laws of 1919, in relation to the proposed improvement of Harlem River by straightening the channel at Johnston's Iron Works, removing or altering High Bridge and widening and deepening the Harlem or Bronx Kills.

Member of the Labor Board appointed by the Governor, pursuant to the provisions of Chapter 894 of the Laws of 1920 for the promotion of better relations between workers and their employers, and for the prevention of strikes and lock-outs.

Member of Interstate Bridge Commission created by Chapter 506 of the Laws of 1916, to make an investigation as to the acquisition by the State of toll bridges over the Delaware River between the States of New York and Pennsylvania.

Member of Commission for the acquisition of land for the construction of fortification at Rockaway Point, pursuant to Chapters 12 and 130 of the Laws of 1917.

Member of Board of Conference created by Chapter 585 of the Laws of 1919, in relation to the proposed construction of a waterway between Gravesend Bay and Jamaica Bay.

Member of Board created by Chapter 317 of the Laws of 1917, as amended by Chapter 122 of the Laws of 1918 and Chapter 15 of the Laws of 1919, for the purpose of making studies relative to the project of constructing a canal on the south side of Long Island from Jamaica Bay to Peconic Bay.

Accounts of the work accomplished by these Commissions will be presented to you in other volumes.

EX-OFFICIO MEMBERSHIP IN SPECIAL COMMISSIONS

While the policy of making State officers ex-officio members of special commissions created to investigate or further projects of State interest is a wise one, it must not be overlooked that the ending of the term of office of any ex-officio member severs his connection with the work of the Commission. If his successor is to enter seriously into the matters pending before the Commission, its life must be prolonged. It has occurred to me that the business of the State intrusted to special bodies of this nature might be expedited if provision was made for the continuance in the Commission of ex-officio members after the expiration of their terms of office.

In speaking of this matter, I have especial reference to the Commission created in connection with the project of building a ship canal through the St. Lawrence River between Montreal and Lake Ontario. Becoming a member of that body by virtue of holding the office of Superintendent of Public Works, and realizing that the matter was of the highest importance to the State, I entered upon a thorough study of all elements and conditions connected with it. While the data collected is at the disposal of my successor, I feel that the intensive personal knowledge which I have gained concerning the proposition would be of value to the Commission. Notwithstanding that my official connection with the Commission will soon cease, it is my purpose to continue the work as a volunteer. It is evident, however, that any aid that I may be able to render would prove more effective if offered by one with official standing. I mention this as an instance only. Without intending any reference to myself personally, I suggest for your consideration in the case of future commissions the making of provision for the continuance in such commissions of ex-officio members after the expiration of their terms of office.

MONEYS COLLECTED

The total amount collected by the department during the 12 months ended November 30, 1920, was \$256,864.08. and was made up of the following items:

For the use of the Barge Canal Terminals and the warehouses and mechanical equipment connected therewith	\$81,570 02
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For the temporary use of Barge Canal and Terminal lands under revocable permits...	\$6,384 95
Proceeds from the sale of old and discarded materials in connection with the old canals.	6,027 80
Considerations received for reconveyance of appropriated lands found no longer necessary for canal purposes	31,761 62
Proceeds from the sale of sand and gravel from canal lands	1,495 15
From railway companies on account of the operation of cars over the Hudson Bridge..	25,109 03
From the railway company on account of the operation of cars over the Congress Street Bridge between Troy and Watervliet.....	4,467 70
Considerations received for revocable permits issued covering use of canal waters by industrial establishments	17,134 33
Fees received for the issue of certificates and licenses and for inspection of vessels under State Navigation Law	2,257 50
Fees received for filing liens and chattel mortgages on canal vessels	23 50
Moneys received for furnishing towing facilities on the canals	68,657 63
For sale of buildings at Rochester pursuant to provisions of Terminal Contract No. 70.	3,500 00
Unexpended balance payable to State for construction of bridge at Amsterdam under Contract No. 118	2,599 78
For sale of navigation charts.....	194 00
For sale of old buildings.....	955 00
For ice cutting permits	1,580 22
From miscellaneous sources unclassified	3,145 85
Total	<u><u>\$256,864 08</u></u>

All such moneys were duly deposited in the State Treasury as required by law.

In the above statement I have not included the sum of \$250,000 paid to the State by the New York Central Railroad Company for itself and on behalf of its lessor, the West Shore Railroad Company, on account of conveyance to it of certain lands connected

with the abandoned canals and used as railroad crossings. This amount was fixed upon by the Canal Board under the provisions of Section 5-A of the Barge Canal Act as just and equitable compensation for rights in the canal lands at the location of various crossings. Since the moneys were received by the State on account of the canals, it is proper that the receipt of the same should be noted here.

RETIREMENT OF OFFICERS AND EMPLOYEES OF THE STATE

The first official of the department to take advantage of the provisions of Chapter 741 of the Laws of 1920, permitting the retirement of officers and employees of the State who have fulfilled the required conditions, is John E. Winne, Statistician, whose actual connection with the department terminated on December 31, 1920. Mr. Winne's period of employment covered 27 years. During that time, he rendered efficient service to the State as general clerk, statistician and expert appraiser of canal property.

CONCLUSION

Attached to this report will be found statements showing in detail expenditures made for the full calendar year, with an account of the bids received for the various contracts advertised and of the payments made to contractors. There are also annexed reports of the Assistant Superintendents and Superintendents of Repairs, relative to matters coming immediately under their charge. I also submit a statement showing in detail the moneys collected by the department from all sources and deposited in the State Treasury.

In closing, I desire to make public expression of my appreciation of the efficient service rendered me by the officials and employees of the department. I also extend to the State Engineer and Surveyor, the Attorney General and the Comptroller, whose departments have been intimately in touch with my own work, my keen appreciation of the co-operation which at all times has been given me.

Respectfully submitted,
EDWARD S. WALSH,
Superintendent of Public Works.

Statements of all expenditures made by the Superintendent of Public Works for the operation, maintenance and repair of the canals, the extraordinary repair of mechanical and other structures and other work and expenses provided for by special acts of the Legislature; also on account of the "Barge Canal" and "Barge Canal Terminals."

Operating expenses and construction or permanent betterments (see Statement No. 1)\$2,299,800 89

SPECIAL APPROPRIATIONS

Expended for various purposes (see Statement No. 2) 793,954 24

"BARGE CANAL ACT"

Expended as shown on Statement No. 3..... 909,783 84

BARGE CANAL IMPROVEMENT CAYUGA AND SENECA CANAL

Expended as shown on Statement No. 4..... 7,101 72

"BARGE CANAL TERMINAL ACT"

Expended as shown on Statement No. 5..... 800,765 86

.....
\$4,811,406 55
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STATEMENT NO. 1
Statement of expenditures for operating expenses on New York State canals, July 1, 1919 to July 1, 1920

	General office	Division	Section No. 1, Erie canal	Section No. 2, Erie canal	Section No. 3, Erie canal	Section No. 4, Erie canal	Section No. 1, Champlain canal	Section No. 2, Champlain canal	Section No. 3, Champlain canal	Total each division	Totals
Administration, general											
Salaries, regular	\$24,808 49										\$24,808 49
Executive staff and office help											
Salaries, regular	10,395 08										10,395 08
Bureau of Finance and Accounting											
Salaries, regular	14,990 00										14,990 00
Bureau of Inspection											
Salaries, regular	11,550 00										11,550 00
Bureau of Navigation											
Salaries, regular	5,604 84										5,604 84
Bureau of Claims and Appraisals											
Salaries, regular	7,241 61										7,241 61
Bureau of Canal Traffic and Statistics											
Salaries, regular	71,759 91										71,759 91
Additional Clerk Hire and Temporary service											
Salaries, temporary	2,444 54										2,444 54
EASTERN DIVISION											
By division superintendent											
General supervision											
Salaries, regular		\$11,460 00								\$11,460 00	
General field and shop force											
Salaries, regular and temporary											
Boat crews division											
Wages, temporary		31,282 50	\$3,209 00	\$118 00							
Section maintenance forces		6,497 96	437 30	1,890 61	\$1,243 95						
Wages, temporary											
		10,311 96	11,036 64	7,898 99	3,703 40	13,359 00	4,481 33	17,215 69	5,541 42	73,548 43	132,080 50

STATEMENT NO. 1 — (Continued)
Statement of expenditures for operating expenses on New York State canals, July 1, 1919 to July 1, 1920

	General office	Division	Section No. 1, Erie canal	Section No. 2, Erie canal	Section No. 3, Erie canal	Section No. 4, Erie canal	Section No. 1, Champlain canal	Section No. 2, Champlain canal	Section No. 3, Champlain canal	Total each division	Totals
By superintendent of canal repairs											
Section No. 1, Erie canal											
Salaries, regular			\$35,371 96							\$35,371 96	
Wages, temporary			23,224 12								
Section No. 2, Erie canal											
Salaries, regular				\$26,189 04						26,189 04	
Wages, temporary				11,921 71							
Section No. 3, Erie canal											
Salaries, regular					\$38,284 70					38,284 70	
Wages, temporary					15,949 23						
Section No. 4, Erie canal											
Salaries, regular						\$18,719 49				18,719 49	
Wages, temporary						15,646 00					
Section No. 1, Champlain											
Salaries, regular							\$27,446 28			27,446 28	
Wages, temporary							17,860 92				
Section No. 2, Champlain											
Salaries, regular								\$18,673 67		18,673 67	
Wages, temporary								12,047 00			
Section No. 3, Champlain											
Salaries, regular									\$17,319 10	17,319 10	
Wages, temporary									7,863 00		
										25,181 10	
											\$286,016 23

STATEMENT NO. 1 — (Continued)
Statement of expenditures for operating expenses on New York State canals, July 1, 1919 to July 1, 1920

	Division	Section No. 5, Erie canal	Section No. 6, Erie canal	Section No. 7, Erie canal	Oswego canal	Cayuga and Seneca canal	Black River canal	Total each division	Total
By Division superintendent	General supervision								
	Salaries, regular							\$14,470 00	
	General field and shop force								
	Salaries and wages, regular and temporary	\$1,312 00	\$5,102 92	\$645 80	\$257 40	\$319 50	\$116 80	33,066 42	
	Reservoir division								
	Wages, regular	1,980 00	1,140 00	240 00			720 00	4,980 00	
	Boat crew division								
	Salaries and wages, regular and temporary	9,427 66	3,631 47	1,919 25	872 37	1,490 83		25,831 70	
	Additional clerk hire and temporary service								
	Salaries, temporary							52 18	
	Section maintenance forces	8,157 64	5,197 43	3,429 90	1,096 38	6,856 33	12,067 25	40,344 43	
	Miscellaneous	3,220 10	1,462 55	98 00	64 30	155 60	98 10	7,652 40	\$126,397 13
By superintendents of canal repairs	Section No. 5, Erie canal								
	Salaries, regular	27,068 53						\$44,597 07	
	Wages, temporary	17,538 54						33,539 49	
	Section No. 6, Erie canal								
	Salaries, regular		13,124 90					14,639 67	
	Wages, temporary		20,414 59					54,201 00	
	Section No. 7, Erie canal								
	Salaries, regular			8,394 49				20,396 75	
	Wages, temporary			6,245 18				4,991 68	
	Oswego canal							17,508 90	
	Salaries, regular				37,040 19			32,100 68	
	Wages, temporary				17,160 81			198,464 56	
Cayuga and Seneca canal	Salaries, regular								
	Wages, temporary								
	Black River canal								
	Salaries, regular								
Black River canal	Salaries, regular								
	Wages, temporary								
	Salaries, regular								
	Wages, temporary								

STATEMENT No. 1 — (Continued)
Statement of expenditures for operating expenses on New York State canals, July 1, 1919 to July 1, 1920

	Division	Section No. 8, Erie canal	Section No. 9, Erie canal	Section No. 10, Erie canal	Section No. 11, Erie canal	Total each division	Totals
WARREN DIVISION							
By division superintendent							
General supervision	\$11,177 42	.....	.....	.....	.....	\$11,177 42	.....
Salaries, regular		.....	.....	.....	.....		.....
General field and shop force	24,848 32	.....	\$1,819 13	\$635 85	\$1,389 00	28,692 30	.....
Salaries and wages, regular and temporary		.....	282 76	.....	8,466 63	11,967 79	.....
Boat crews division	1,964 70	\$1,253 65	.....	.....	.....	.....	.....
Wages, temporary		.....	.....	.....	.....	.....	.....
Section maintenance forces		4,181 42	13,888 51	21,749 32	13,282 63	53,101 88	.....
Wages, temporary		.....	.....	.....	.....	1,274 84	.....
Miscellaneous	1,274 84	.....	.....	.....	.....	.....	\$106,214 23
By superintendents of canal repairs							
Section No. 8, Erie canal		30,796 85	.....	.....	.....	.....	.....
Salaries, regular		15,651 91	.....	.....	.....	\$46,438 76	.....
Wages, temporary		.....	.....	.....	.....	.....	.....
Section No. 9, Erie canal		.....	21,088 28	.....	.....	.....	.....
Salaries, regular		.....	43,493 01	.....	.....	64,581 29	.....
Wages, temporary		.....	.....	.....	.....	.....	.....
Section No. 10, Erie canal		.....	.....	14,282 00	.....	.....	.....
Salaries, regular		.....	.....	40,250 68	.....	54,532 68	.....
Wages, temporary		.....	.....	.....	.....	.....	.....
Section No. 11, Erie canal		.....	.....	.....	15,991 89	.....	.....
Salaries, regular		.....	.....	.....	5,173 03	21,164 94	.....
Wages, temporary		.....	.....	.....	.....	.....	186,717 67

STATEMENT No. 1 — (Continued)
Maintenance and Operation

	Food supplies, inspection boat	Fuel, light, power and water	Printing, general	Printing departmental report	Advertising	Equipment supplies and materials	Traveling expenses of Superintendent of Public Works
By superintendent.....	\$1,000 00	\$3,080 12	\$2,991 93	\$1,550 25	\$433 60	\$40,752 49	\$2,500 00
EASTERN DIVISION							
By division superintendent:							
Division.....							
Section No. 1, Erie canal.....		9,948 41				34,070 91	
Section No. 2, Erie canal.....		544 46			102 00	4,188 55	
Section No. 3, Erie canal.....		6,361 79			90 16	5,775 40	
Section No. 4, Erie canal.....		3,373 45			68 97	5,727 28	
Section No. 1, Champlain canal.....		1,740 63				7,178 71	
Section No. 2, Champlain canal.....		1,469 49			114 97	5,880 25	
Section No. 3, Champlain canal.....		1,602 65			61 26	12,019 44	
		1,365 77			112 07	8,116 73	
MIDDLA DIVISION							
By division superintendent:							
Division.....							
Section No. 5, Erie canal.....		1,683 62				35,493 32	
Section No. 6, Erie canal.....		1,655 97			102 50	4,573 09	
Section No. 7, Erie canal.....		325 28			120 73	6,312 24	
Owego canal.....		381 65			52 03	2,089 54	
Cayuga and Seneca canal.....		981 97			104 79	1,967 30	
Black River canal.....		1,293 54			73 50	2,523 79	
		85 00			113 25	6,053 34	
WESTERN DIVISION							
By division superintendent:							
Division.....							
Section No. 8, Erie canal.....		997 33				10,561 31	
Section No. 9, Erie canal.....		5,114 23			74 97	4,814 77	
Section No. 10, Erie canal.....		1,413 70			153 73	28,875 42	
Section No. 11, Erie canal.....		1,401 08			118 47	11,541 03	
		2,150 56			62 00	21,112 97	
	\$1,000 00	\$44,999 70	\$2,991 93	\$1,550 25	\$1,937 98	\$253,927 75	\$2,500 00

STATEMENT No. 1 — (Continued)
Maintenance and Operation

	Traveling expenses of other officials and employees	Communi- cation	Payment of small claims	General plant service	Rents	Totals	Totals each division	Totals
By superintendent.....	\$12,158 40	\$5,080 71	\$823 75	\$11,492 54	\$274 00	\$82,137 79	\$82,137 79	.....
EASTERN DIVISION								
By division superintendent:								
Division.....	9,608 79	1,483 40	59 00	96 19	648 00	55,914 70	.....	.....
Section No. 1, Erie canal.....	306 13	402 61	.....	.....	.....	5,543 75	.....	.....
Section No. 2, Erie canal.....	1,036 00	959 41	.....	.....	310 00	15,296 01	.....	.....
Section No. 3, Erie canal.....	671 68	1,004 43	5 00	758 25	.....	11,592 48	.....	.....
Section No. 4, Erie canal.....	600 63	.....	.....	746 67	.....	13,786 28	.....	.....
Section No. 1, Champlain canal.....	869 77	580 81	.....	3,685 50	.....	9,328 32	.....	.....
Section No. 2, Champlain canal.....	448 54	756 34	.....	287 50	.....	15,549 22	.....	.....
Section No. 3, Champlain canal.....	557 49	430 89	.....	861 40	125 04	9,598 22	136,608 98	.....
MIDDLE DIVISION								
By division superintendent:								
Division.....	8,716 66	2,179 09	.....	424 53	.....	48,496 22	.....	.....
Section No. 5, Erie canal.....	543 74	703 80	.....	5 00	8 00	6,682 10	.....	.....
Section No. 6, Erie canal.....	192 75	232 00	.....	.....	.....	7,182 99	.....	.....
Section No. 7, Erie canal.....	239 09	157 28	.....	.....	88 00	2,957 39	.....	.....
Oswego canal.....	305 89	731 29	.....	.....	240 00	4,331 24	.....	.....
Cayuga and Seneca canal.....	271 95	340 98	.....	.....	45 00	4,543 76	.....	.....
Black River canal.....	330 33	257 70	.....	12 00	.....	6,851 62	81,050 32	.....
WESTERN DIVISION								
By division superintendent:								
Division.....	4,805 37	1,315 19	89 63	.....	.....	17,768 73	.....	.....
Section No. 8, Erie canal.....	1,018 46	623 81	.....	.....	.....	11,346 24	.....	.....
Section No. 9, Erie canal.....	532 28	476 37	.....	.....	.....	26,150 69	.....	.....
Section No. 10, Erie canal.....	525 69	534 64	.....	.....	.....	14,120 91	.....	.....
Section No. 11, Erie canal.....	254 90	241 34	.....	.....	.....	23,821 77	93,208 34	.....
Totals.....	\$43,904 54	\$18,998 25	\$977 38	\$18,369 58	\$1,738 04	.....	.....	\$393,005 43
Totals.....	.....	.....	.....	.....	.....	.....	.....	\$393,005 43

STATEMENT No. 1 — (Continued)
Construction or Permanent Betterments

		Totals each division	Totals
Removal of bridges spanning portions of the abandoned canals:			
By division superintendents.....	\$28,198 98		\$28,198 98
Construction or cleaning out of drainage ditches:			
By division superintendents.....	\$6,302 50		6,302 50
Construction of store and lock houses:			
By superintendent.....	\$500 00		
By division superintendents.....	6,791 36		7,291 36
Construction or purchase of channel lights:			
By superintendent.....	\$2,320 00		
By division superintendents.....	178 59		2,498 59
For the purchase or construction of aids to naviga- tion:			
By division superintendents.....	\$2,386 06		2,386 06
For the construction of cottages for housing lock em- ployees at locks in isolated places:			
By division superintendent.....	\$4,580 99		4,580 99
Prise lock, barge canal:			
By division superintendents.....	\$304 00		304 00
For the purpose or construction of motor boats:			
By division superintendent.....	\$977 67		977 67
For the purchase of electrical pumps for new type locks:			
By division superintendent.....	\$896 11		896 11
Drake's draw bridge			
Bridge tender, salary.....	\$720 00		720 00
Minisceongo creek draw bridge:			
Bridge tender, salary.....	\$720 00		720 00
CONSTRUCTION AND REPAIRS			
By superintendent.....	\$253,022 19	\$253,022 19	
EASTERN DIVISION			
By division superintendent:			
Division.....	\$132,259 03		
Section No. 1, Erie canal.....	13,343 31		
Section No. 2, Erie canal.....	18,326 72		
Section No. 3, Erie canal.....	31,780 13		
Section No. 4, Erie canal.....	34,925 38		
Section No. 1, Champlain canal.....	2,936 89		
Section No. 2, Champlain canal.....	23,147 22		
Section No. 3, Champlain canal.....	8,991 99		
		265,710 67	
MIDDLE DIVISION			
By division superintendent:			
Division.....	\$31,053 03		
Section No. 5, Erie canal.....	24,625 18		
Section No. 6, Erie canal.....	7,406 85		
Section No. 7, Erie canal.....	3,587 41		
Oswego canal.....	1,817 02		
Cayuga and Seneca canal.....	4,354 48		
Black River canal.....	13,207 99		
		86,051 96	
WESTERN DIVISION			
By division superintendent:			
Division.....	\$8,235 15		
Section No. 8, Erie canal.....	15,518 15		
Section No. 9, Erie canal.....	9,600 87		
Section No. 10, Erie canal.....	12,906 48		
Section No. 11, Erie canal.....	16,219 94		
		62,480 59	
			667,265 41
			\$2,299,800 83

STATEMENT No. 2

Statement of payments made by the Superintendent of Public Works under Legislative Acts, for the purposes therein stated, from January 1, 1920, to January 1, 1921.

For completing the work of straightening and cleaning out Bell's creek in the town of Schroepfel, Oswego county. (Chapter 177, Laws of 1919.)

By Division Superintendent.....	\$1,292 75	
	<hr/>	\$1,292 75

Repair, improvement and preservation of the building known as "Guy Park House" and the grounds adjacent thereto in the city of Amsterdam. (Chapters 177 and 582, Laws of 1919 and 1920.)

By Division Superintendent.....	\$5,676 34	
	<hr/>	5,676 34

For the purpose of supplementing facilities at Barge Canal Terminals, partly constructed, to meet emergency conditions. (Chapters 592 and 211, Laws of 1918 and 1919.)

By Superintendent	\$42,674 30	
	<hr/>	42,674 30

To restore the Black River canal to a navigable condition for its entire length by the repair and rebuilding of certain structures thereof. (Chapters 564 and 165, Laws of 1918 and 1920.)

By Superintendent	\$32,349 03	
	<hr/>	32,349 03

Dredging Chadakoin river, known as Chautauqua lake outlet. (Chapters 758, 728, 181 and 644, Laws of 1913, 1915, 1917 and 1919.)

By Superintendent	\$5,274 60	
	<hr/>	5,274 60

Constructing a bridge across the spillway channel of the outlet of Cuba lake in the town of Cuba, Allegany county. (Chapter 637, Laws of 1919.)

John B. Smith, contractor.....	\$17,414 10	
Advertising	115 00	
	<hr/>	17,529 10

Constructing a concrete culvert over Eighteen Mile creek in the city of Lockport. (Chapters 626 and 644, Laws of 1917 and 1919.)

Savage Construction Co. Inc., contractor.....	\$1,247 24	
	<hr/>	1,247 24

Construction of a bridge over the Cayuga and Seneca canal at Lake street in the city of Geneva. (Chapter 351, Laws of 1918.)

E. Brown Baker, contractor.....	\$12,139 47	
	<hr/>	12,139 47

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Construction of a temporary bridge over the Cayuga and Seneca canal at Lake street in the city of Geneva. (Chapter 246, Laws of 1919.)		
E. Brown Baker, contractor.....	\$1,300 00	
		1,300 00
For the prevention of floods on property abutting Griffin creek in the village of Cuba, Allegany county. (Chapter 565, Laws of 1918.)		
By Superintendent	\$1,158 94	
		1,158 94
Completing the work of clearing the channel and protecting the banks of Griffin creek in the vil- lage of Cuba, Allegany county. (Chapter 906, Laws of 1920.)		
By Superintendent	\$14,968 91	
		14,968 91
Maintenance of Greenbush (Hudson) bridge be- tween the counties of Albany and Rensselaer. (Chapter 642, Laws of 1919.)		
By Superintendent	\$11,329 99	
		11,329 99
For the repair and maintenance of Hudson bridge. (Chapter 165, Laws of 1920.)		
By Superintendent	\$35,379 32	
		35,379 32
Improvement of the approaches to the Hudson bridge between Albany and Rensselaer. (Rens- selaer approach.) (Chapter 585, Laws of 1920.)		
By Superintendent	\$44 48	
		44 48
Improvement of the approaches to the Hudson bridge between Albany and Rensselaer. (Albany approach.) (Chapter 586, Laws of 1920.)		
By Superintendent	\$44 47	
		44 47
For deepening, widening, straightening and other- wise improving Limestone creek in the village of Fayetteville, Onondaga county. (Chapters 751, 339 and 905, Laws of 1917, 1918 and 1920.)		
By Superintendent	\$7,518 32	
		7,518 32
For the straightening, dredging and making of other improvements to restrain and control the waters of Allegany river and Olean creek		

within the corporate limits of the city of Olean. (Chapters 717 and 181, Laws of 1915 and 1917.)		
Lord Construction Co., contractor.....	\$5,841 75	
By Superintendent	3,000 00	
		8,841 75
Improving the Oneida feeder in the city of Oneida. (Chapter 884, Laws of 1920.)		
By Division Superintendent.....	\$3,835 84	
		3,835 84
For the purchase or construction of steel pon- toons or other devices or apparatus for the raising of sunken boats. (Chapters 708, 181 and 177, Laws of 1915, 1917 and 1919.)		
By Superintendent	\$30,000 00	
		30,000 00
For the construction of a dive culvert at Rome for the purpose of maintaining the proper water level of the canal. (Chapter 346, Laws of 1918.)		
Scott Brothers, contractor.....	\$34,563 94	
		34,563 94
Schenectady-Scotia bridge. (Chapters 735 and 634, Laws of 1917 and 1919.)		
DuBois Bennett & Son, contractor.....	\$131,733 00	
American Pipe & Construction Co., contractor..	49,464 00	
Engineering	14,875 40	
Land appropriated	24,823 47	
Investigating claims	1,958 46	
Advertising	1,688 20	
Printing	161 96	
		224,704 49
Providing towing facilities on State canals. (Chapter 264, Laws of 1919.)		
By Superintendent	\$44,676 93	
By Division Superintendents	3,258 30	
		47,935 23
Providing towing facilities on State canals. (Chapters 370 and 941, Laws of 1920.)		
By Superintendent	\$223,813 86	
By Division Superintendents	1,164 28	
		224,978 14
Maintenance of the Congress street bridge, Troy, between the counties of Albany and Rensselaer. (Chapter 643, Laws of 1919.)		
By Superintendent	\$13,072 53	
		13,072 53
For necessary repairs and maintenance of struc- tures which have been constructed by the Su- perintendent of Public Works on and connected		

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with waters of this State and which are not included as part of the canal system. (Chapters 791, 728, 181 and 177, Laws of 1913, 1915, 1917 and 1919.)

By Superintendent	\$50 80	
By Division Superintendents	2,374 81	
		<hr/> 2,425 61
For the reconstruction and rebuilding of the bridge crossing the Hudson river and Barge canal and connecting the cities of Troy and Cohoes between the counties of Albany and Rensselaer. (Chapter 907, Laws of 1920.)		
By Superintendent	\$13,669 45	
		<hr/> 13,669 45
		<hr/> <hr/> \$793,954 24

STATEMENT NO. 3

Statement of payments made by the Superintendent of Public Works from January 1, 1920, to January 1, 1921, under the "Barge Canal Act."

(Chapter 147, Laws of 1903, and Amendatory Acts thereto.)

Contract No. 22:

M. Fitzgerald, contractor.....	\$500 00	
Extra or unspecified work (see Canal Board proceedings March 17, 1920)	250 00	
		<hr/> \$750 00

Contract No. 47-A:

By Superintendent	\$987 77	
		<hr/> 987 77

Contract No. 59:

MacArthur Brothers Co., contractor.....	\$123,417 58	
		<hr/> 123,417 58

Contract No. 63-A, Completion of:

By Superintendent	\$100 00	
		<hr/> 100 00

Contract No. 117:

Walter S. Rae, contractor.....	\$4,840 28	
		<hr/> 4,840 28

Contract No. 138:

Combined Construction Co., contractor.....	\$21,745 58	
By State Engineer and Surveyor.....	4,791 41	
		<hr/> 26,536 99

Contract No. 144-A:

Brown & Lowe Co. and Law Brothers, contractor.	\$36,954 00	
Extra or unspecified work (see Canal Board proceedings June 2, 1920)	1,105 39	
Advertising	173 46	
		<hr/> 38,232 85

Contract No. 146:		
Peckham Construction Co. Inc., contractor.....	\$12,693 13	
		12,693 13
Contract No. 147:		
Lathrop, Shea & Henwood Co., contractor.....	\$99,607 60	
Extra or unspecified work (see Canal Board proceedings March 17 and August 18, 1920)....	1,152 73	
		100,760 33
Contract No. 148:		
Lathrop, Shea & Henwood Co., contractor.....	\$4,497 43	
Extra or unspecified work (see Canal Board proceedings April 7, 1920).....	5,286 19	
		9,783 62
Contract No. 152:		
Lupfer & Remick, contractor.....	\$117,022 66	
Extra or unspecified work (see Canal Board proceedings June 2 and June 23, 1920).....	2,574 00	
Advertising	300 00	
		119,896 66
Contract No. 164:		
Lathrop, Shea & Henwood Co., contractor.....	\$905 98	
		905 98
Contract No. 186:		
Printing	\$111 31	
		111 31
Contract No. 189:		
Lathrop, Shea & Henwood Co., contractor.....	\$18,561 84	
Advertising	120 28	
		18,682 12
Contract No. 190:		
Empire Engineering Co. Inc., contractor.....	\$64,377 00	
		64,377 00
Contract No. 191:		
Empire Engineering Co. Inc., contractor.....	\$35,437 00	
		35,437 00
Contract No. 192:		
Brown & Lowe Co., contractor.....	\$236,445 00	
Extra or unspecified work (see Canal Board proceedings June 23, July 21 and November 4, 1920)	22,528 36	
		258,973 36
Contract No. 194:		
Dunbar & Sullivan Dredging Co., contractor....	\$36,791 04	
Advertising	173 47	
		36,964 51
Contract No. 198:		
Lupfer & Remick, contractor.....	\$23,494 50	
Advertising	191 47	
		23,685 97

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Contract No. 201:		
I. M. Ludington's Sons Inc., contractor.....	\$4,321 75	
		4,321 75
Contract No. 202:		
Advertising	\$493 59	
		493 59
Contract No. 204:		
I. M. Ludington's Sons Inc., contractor.....	\$3,167 90	
Advertising	230 62	
		3,398 52
General Expenses:		
Dredging at east end of Oneida lake.....	\$13,721 94	
Traveling expenses	53 57	
Recording appropriations of land.....	46 23	
Rip-rapping at Lyons.....	10,611 78	
		24,433 52
		<u>\$909,783 84</u>

STATEMENT No. 4

Statement of payments made by the Superintendent of Public Works from January 1, 1920, to January 1, 1921, for the improvement of the Cayuga and Seneca Canal.

(Chapter 391, Laws of 1909.)

Contract "T":

Kennedy & Scullen Construction Co., contractor.	\$4,638 66	
Extra or unspecified work (see Canal Board proceedings June 2, July 7, August 18, September 10 and November 4, 1920)	2,325 06	
		\$6,963 72

Contract "S":

Advertising	\$138 00	
		138 00
		<u>\$7,101 72</u>

STATEMENT No. 5.

Statement of payments made by the Superintendent of Public Works from January 1, 1920, to January 1, 1921, under the "Barge Canal Terminal Act."

(Chapter 746, Laws of 1911; Chapter 137, Laws of 1919, and Chapters 402 and 698, Laws of 1920.)

Contract No. 10-P:

Patrick W. Mulderry, contractor.....	\$540 30	
		\$540 30

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Contract No. 19-P:		
The Hastings Pavement Co., contractor.....	\$23,329 09	
Printing	100 76	
Advertising	493 72	
		<hr/> 23,923 57
Contract No. 21:		
Empire Engineering Co., Inc., contractor.....	\$13,313 81	
		<hr/> 13,313 81
Contract No. 26-A:		
Printing	\$104 42	
		<hr/> 104 42
Contract No. 28:		
Barrally & Ingersoll, contractor.....	\$3,181 77	
		<hr/> 3,181 77
Contract No. 28-A:		
Eugene Dawley, contractor	\$5,193 00	
Printing	85 80	
Advertising	62 00	
		<hr/> 5,340 80
Contract No. 36-A:		
Holler-La Du Corporation, contractor.....	\$25,929 00	
Advertising	120 29	
		<hr/> 26,049 29
Contract No. 38:		
I. J. Stander & Co., Inc., contractor.....	\$15,973 57	
Extra or unspecified work (see Canal Board pro- ceedings February 4 and March 17, 1920)....	311 87	
		<hr/> 16,285 44
Contract No. 42:		
Leonard Paving Co., contractor.....	\$4,734 05	
		<hr/> 4,734 05
Contract No. 43:		
McHarg-Barton Co., contractor.....	\$102,006 00	
Extra or unspecified work (see Canal Board pro- ceedings March 3, 1920).....	526 00	
Advertising	319 22	
		<hr/> 102,851 22
Contract No. 44-P:		
The Asphalt Construction Co., contractor.....	\$1,032 04	
Extra or unspecified work (see Canal Board proceedings January 7, 1920).....	409 04	
		<hr/> 1,441 08
Contract No. 45:		
Mohawk Dredge & Dock Co., Inc., contractor...	\$69,390 00	
Extra or unspecified work (see Canal Board pro- ceedings July 21, 1920).....	333 53	
Printing	150 47	
Advertising	120 29	
		<hr/> 69,994 29

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Contract No. 53:		
Walsh Construction Co., contractor	\$26,381 88	
		26,381 88
Contract No. 55:		
Riverside Contracting Co., contractor	\$148,455 00	
		148,455 00
Contract No. 57:		
Charles Kiehm, contractor	\$16,008 09	
Extra or unspecified work (see Canal Board pro- ceedings August 18, 1920)	115 62	
		16,123 71
Contract No. 69:		
Richard C. Bush, contractor	\$818 53	
		818 53
Contract No. 71:		
I. M. Ludington's Sons, Inc., contractor	\$23,500 00	
Printing	170 50	
Advertising	596 60	
		24,267 10
Contract No. 76:		
Mohawk Dredge & Dock Co., Inc., contractor...	\$12,240 00	
Advertising	100 02	
		12,340 02
Contract No. 77:		
New Jersey Shipbuilding and Dredging Co., con- tractor	\$1,302 50	
		1,302 50
Contract No. 79:		
Raymond Concrete Pile Co., contractor	\$9,612 00	
Printing	136 68	
Advertising	140 40	
		9,889 08
Contract No. 80:		
Printing	\$105 36	
Advertising	140 40	
		245 76
Contract No. 102:		
Edward F. Terry Manufacturing Co., contractor.	\$38,105 10	
		38,105 10
Contract No. 103-A:		
Brown Portable Conveying Machinery Co., con- tractor	\$2,137 60	
		2,137 60
Contract No. 104:		
Printing	\$114 75	
Advertising	373 30	
		488 05
Contract No. 105:		
Lord Electric Co., contractor	\$2,074 34	

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Extra or unspecified work (see Canal Board proceeding January 21, April 7 and June 2, 1920)	412 19	
		2,486 53
Contract No. 107:		
J. Livingston & Co., Inc., contractor.....	\$21,528 00	
Extra or unspecified work (see Canal Board proceedings June 2, 1920)	349 50	
		21,877 50
Contract No. 108:		
T. Frederick Jackson, Inc., contractor.....	\$1,854 00	
Advertising	205 86	
		2,059 86
Contract No. 109:		
General Electric Co., contractor.....	\$9,023 00	
		9,023 00
Contract No. 112:		
Lansing Co., contractor	\$3,490 00	
Advertising	319 22	
		3,809 22
Contract No. 113:		
General Electric Co., contractor	\$7,754 00	
		7,754 00
Contract No. 114:		
Printing	\$100 05	
		100 05
Contract No. 116:		
Advertising	\$790 20	
		790 29
Contract No. 117:		
Leonard Morey, contractor	\$5,292 52	
		5,292 52
Contract No. 203-P:		
M. J. Flannery & Co., contractor.....	\$673 00	
Printing	110 43	
Advertising	116 25	
		899 68
Contract No. 207:		
I. J. Stander & Co., Inc., contractor.....	\$2,481 23	
Extra or unspecified work (see Canal Board proceedings January 7 and March 3, 1920).....	1,703 50	
		4,184 73
Contract No. 207-H:		
Miller & Brady, Inc., contractor.....	\$345 00	
Extra or unspecified work (see Canal Board proceedings May 5, 1920)	312 26	
		657 26
Contract No. 207-P:		
Jarcho Brothers, contractor	\$1,133 00	

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Extra or unspecified work (see Canal Board proceedings February 4 and August 18, 1920)...	684 85	
		1,817 85
Contract No. 212:		
The Fulton Construction Corporation, contractor	\$82,269 00	
Extra or unspecified work (see Canal Board proceedings January 7, 1920).....	4,020 24	
		86,289 24
Contract No. 212-H:		
Power Efficiency Corporation, contractor.....	\$3,504 60	
Advertising	105 62	
		3,610 22
Contract No. 212-P:		
James J. Bresnahan, contractor.....	\$2,187 00	
Advertising	105 63	
		2,292 63
Contract No. 217:		
A. E. Norton, Inc., contractor.....	\$10,770 28	
Extra or unspecified work (see Canal Board proceedings June 23 and November 4, 1920)....	2,265 99	
		13,036 27
Contract No. 217-P:		
Altman Plumbing Co., contractor.....	\$1,902 00	
Extra or unspecified work (see Canal Board proceedings November 4, 1920).....	198 37	
		2,100 37
Contract No. 218:		
Donnell-Zane Co., Inc., contractor.....	\$30,517 66	
Extra or unspecified work (see Canal Board proceedings November 4, 1920).....	225 00	
		30,742 66
Contract No. 219:		
The Snare & Triest Co., contractor.....	\$1,287 00	
Printing	211 18	
Advertising	83 20	
		1,581 38
Contract No. 223:		
Post & McCord, contractor.....	\$7,384 95	
		7,384 95
Contract No. 223-P:		
Thomas E. O'Brien, Inc., contractor.....	\$1,197 00	
Printing	95 20	
Advertising	342 00	
		1,634 20
Contract No. 224:		
Post & McCord, contractor	\$3,285 00	
Printing	215 30	

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Advertising	918 80	
	<hr/>	4,419 10
Contract No. 225:		
Fox, Reynolds Co., Inc., contractor.....	\$14,076 00	
Printing	233 77	
Advertising	120 29	
	<hr/>	14,430 06
Contract No. 225-H:		
Printing	\$91 05	
Advertising	178 50	
	<hr/>	269 55
Contract No. 225-P:		
Printing	\$96 95	
Advertising	178 50	
	<hr/>	275 45
Contract No. 228:		
W. F. Martens, contractor	\$13,538 70	
Extra or unspecified work (see Canal Board proceedings August 18, 1920).....	70 00	
Printing	138 60	
Advertising	562 60	
	<hr/>	14,309 90
Contract No. 229:		
Printing	\$126 79	
	<hr/>	126 79
General Expenses:		
Confidential appraiser and investigator, salary and expense	\$3,195 00	
Chauffeur	1,681 29	
Clerk hire	1,806 56	
Watching Banner Milling Company property, Buffalo terminal	1,782 00	
Watchman at temporary roadway crossing, Rochester terminal	372 00	
Repairs, Buffalo terminal	283 14	
Traveling expenses	72 39	
Recording appropriations of land	3 85	
	<hr/>	9,196 23
		<hr/>
		\$800,765 86
		<hr/>

STATEMENT No. 6

Statement of Moneys Paid Into the State Treasury by the Superintendent of Public Works from December 1, 1919, to December 1, 1920.

Revenue from towing service (see Appendix "A").....	\$68,657 63
Revenue from wharfage privileges (see Appendix "B").....	75,671 71
Rental of terminal property (see Appendix "C").....	4,216 66

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Rental of terminal machinery (see Appendix "D")	1,681 65
Rental of lands for farming purposes (see Appendix "E") ..	4,091 75
Rentals for other than farming purposes (see Appendix "F")	2,293 20
Revenue from use of canal waters by industrial establishments (see Appendix "G")	17,134 33
Receipts for reconveyance of land (see Appendix "H")	31,761 62
Receipts from sale of sand and gravel (see Appendix "I") ..	1,495 15
Receipts from sale of material other than sand and gravel (see Appendix "J")	6,027 80
Receipts from sale of old buildings (see Appendix "K")	955 00
Revenue from Hudson bridge and Congress street bridge (see Appendix "L")	29,576 73
Fees for licenses and inspections (see Appendix "M")	2,257 50
Receipts for ice privileges (see Appendix "N")	1,580 22
Miscellaneous receipts (see Appendix "O")	9,463 13
	<hr/>
	\$256,864 08
	<hr/>

APPENDIX "A"

TOWING RECEIPTS

Received from J. Wm. Grady, Traffic Agent, being amounts collected by him for providing towing facilities during the season of 1920:

1919	
December	\$1,438 59
1920	
March	478 70
May	1,055 35
June	6,850 18
July	14,055 65
August	2,570 56
September	17,014 51
October	9,368 42
November	13,147 65
	<hr/>
	\$65,979 61
United States Railroad Administration, use of tugs	267 87
Edward G. Murray Lighterage and Transportation Co., use of tugs	2,334 64
W. P. Doran, Supervisor of Towing, from:	
Capt. Hasbrook in payment for four tons of coal	48 00
United States Railroad Administration, Pennsylvania Railroad Company, refund on freight over-charged on coal	7 51
	<hr/>
	\$68,657 63
	<hr/>

APPENDIX "B"

WHARFAGE RECEIPTS

Commissioners of the Sinking Fund of the city of New York,
in payment of one-half of the amount of wharfage fees col-
lected for use of piers 5 and 6, East river, from May 1st
to October 31st, 1919, less 25 per cent of the salary of
city dock-master as per agreement dated August 16, 1916

\$1,186 52

Amounts collected by harbor masters for wharfage privileges at
terminals in the Metropolitan district:

1919

December \$1,484 12

1920

January 3,849 77

February 3,388 28

March 2,699 20

April 4,176 02

15,597 39

Received from Frank P. Keenan, private secretary, being
amounts collected for wharfage privileges at terminals in
the Metropolitan district:

1920

May \$2,928 19

June 3,975 16

July 3,856 97

August 7,789 64

September 8,388 29

October 6,397 10

November 10,695 45

44,030 80

Great Lakes Transit Corporation, for privilege of mooring two vessels in slip No. 1, Erie basin, Buffalo, during closed sea- son of 1919-1920	200 00
The Toronto, Hamilton & Buffalo Navigation Co., in payment for use of terminal at Erie basin, Buffalo, for mooring ves- sels during closed season of 1919-1920	300 00
Ferguson Steel & Iron Co., for privilege of mooring two vessels in slip No. 1, Erie basin, Buffalo, during closed season of 1919-1920	200 00
New York & Baltimore Inland Navigation Co., for rental of space for berthing vessels at Pier 5, East river	400 00
Martin-McAvoy Navigation Co., for use of waters adjacent to Greepoint terminal, Brooklyn	7,407 00
Overseas Navigation Co., successors to Martin-McAvoy Naviga- tion Co., for use of waters adjacent to Greenpoint termi- nal, Brooklyn	5,600 00

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Boland & Cornelius, for privilege of mooring three vessels at Erie Basin terminal, Buffalo, during closed season of 1920- 1921	750 00
	<hr/>
	\$75,671 71
	<hr/>

APPENDIX "C"

*Received for rental of space (buildings and land) for storage purposes at
Barge Canal Terminals in the Metropolitan district.*

Name and Terminal.	Amount.
The Aeolian Company, Mott Haven.....	\$1,200 00
Provident Export and Import Storage Co., Pier 6, East river..	1,666 66
New York & Baltimore Inland Transportation Co., Pier 6, East river	150 00
Clonin & Messenger, Long Island City.....	800 00
H. J. Kane & Co., Mott Haven.....	400 00
	<hr/>
	\$4,216 66
	<hr/>

APPENDIX "D"

Received for Use of Equipment at Barge Canal Terminals

Atlas Portland Cement Co., for use of equipment at Troy.....	\$311 22
Frank P. Keenan, private secretary, amounts collected by him for use of equipment at terminals in the Metropolitan dis- trict	1,370 43
	<hr/>
	\$1,681 65
	<hr/>

APPENDIX "E"

Received for rental of lands for farming purposes during the season of 1920:

NAME	Parcel	Contract	Amount
Peter Martusello.....	{ 1258. 3151.	20. 20-D.	} \$25 00
Elmer M. Ingalsbe.....	436.	25.	10 00
Mrs. Amelia Conant.....	2502.	43.	49 00
Wm. F. Wilson.....	2175.	71-A.	50 00
Mrs. Cora E. Moon.....	4427.	71-A.	15 00
Felix Gotti.....	2522.	20-C.	15 00
Stephen Yager.....	679.	14.	15 00
Thomas Ambridge.....	2519.	20-C.	5 00
Wm. Mansfield.....	3090-3091.	" B "	15 00
Nick Laino.....	2043-2044-2045. 2948-2949. 2950-2951-2952. 2953-2954.	42. 77.	25 00 50 00
Wasyl Yaskow (season of 1919 and 1920).....	3156-3062.	48.	125 00
John McMichael.....	{ 279. 5132-5359.	8. 20-D.	} 35 00
Alex Affelt.....	2354.	14.	25 00
Tony Donato.....	4683.	30.	30 00
Fred Linendoll.....	152.	1.	25 00
Jos. Pixner.....	2358.	14.	25 00
Guy Boskey.....	647.	14.	6 00
Jacob Hartman.....	3039.	77.	5 00
W. W. Patterson.....	3239.	1.	50 00
S. S. Galloway.....	3119-3179.	77.	90 00
W. L. Van Vechten.....	4422.	71-A.	80 00
Alice C. Deuel.....	495.	27.	20 00
P. Cronquist.....	501.	27.	5 00
Frank Medes.....	548-74A-74B.	Ter. 15.	15 00
Mrs. Geneva Chaffee.....	{ 147. 112-116. 116 1/2-117.	1. 3.	} 10 00
Daniel Forslay.....	2497. 4035-4036. 4223-3174. 3558-3559.	77. " B "	5 00 25 00
Mrs. Waldo G. Morse.....	1385-1384.	48.	25 00
David H. Evans.....	1797-1799-1802.	30.	40 00
John S. Murtaugh.....	{ 1427-1428. 1429-3562.	19.	15 00
Albert Frits.....	1426.	19.	5 00
Ernest Frieling.....	1080-4051-4052.	68.	35 00
Elmer E. Walker.....	394.	25.	25 00
L. G. White.....	{ 332-335-693. and 3 acres in 328-329-330.	15.	30 00
Edwing Stevens, Jr.....	2168. 4758-4736. 4807-4808.	14. 18-A.	35 00 25 00
Geo. B. Freleigh.....	1653-1654-1655. 2101-2240-2249.	20-A.	100 00
Uriah Goodbread.....	2639.	20-B.	10 00
H. T. Dodge.....	4569.	39.	40 00
Carmine Perruzzi.....	666.	14.	28 00
V. R. Fuller.....	4512.	20-B.	8 00
Dinkleman Brothers.....	2981.	45.	35 00
Timothy D'Archangelis.....	3238.	26.	15 00
Wm. Kline.....	1759.	23.	25 00
A. H. Snyder.....	2293-2300-A.	46.	25 00
Thos. Zarnow.....	2203.	21.	10 00
A. E. Van Ditto.....	91-103.	5.	50 00
Geo. Mannings.....	{ 431-454. 1093-1094.	25.	40 00
A. J. Spoor.....	282.	8.	12 50
John Guerin.....	651.	14.	25 00
C. J. Hixon.....	2203-2224-A.	21.	50 00
Jos. Fontanelli.....	{ 458-461. 464-465.	25.	20 00
John G. Jones.....	Land along old Champlain canal near Smith's Basin.		10 00
Mrs. Sarah Davison.....			
E. J. Blaisdell.....			

APPENDIX E—(Continued)

NAME	Parcel	Contract	Amount
Newell E. Morse.....	344-603.	15.	\$50 00
Orin A. Reed.....	4415	71-A.	33 00
Wm. H. Smith.....	2271	14.	69 00
Grant Reynolds.....	2974	48.	10 00
Harvey S. Greene.....	2176	70.	22 50
James Munckton.....	2181-2185	14.	30 00
Jarvis P. O'Brien.....	491	27.	25 00
A. F. Ripley.....	2470	43.	35 00
Charles A. Martin.....	4419	71-A.	5 00
J. F. Dickenson.....	495	27.	5 00
Thos. Morrow.....	2402	71.	30 00
Pepper Brothers.....	4425-4428-4431	71-A.	
	4527	20-D.	10 00
George Van Vleck.....	1158-1003-1113.	55.	361 00
	1127-1115-1133-A.		
	934-1007-1008.		
W. F. Pillmore.....	122	55.	100 00
E. W. Parmlee.....	1933	55.	40 00
Harry Van Vleck.....	1930-1926-1916.	55.	436 75
	1913-1918.		
Geo. B. Olney.....	123	55.	50 00
Lucy E. Hurlbut.....	1056-A.	55.	10 00
J. O. Warcup.....	1932	55.	42 00
Jerome C. Van Vranken.....	2287	14.	50 00
Gustave Markendorf.....	3082-3076-3078.	77.	40 00
	3476-3478-3479.		
Chas. F. Lembke.....	Land near old lock 54, Erie canal.	27.	35 00
Mahlon Brodie.....	524		
Fred G. Jones.....	3090	" B "	5 00
C. C. Terwilliger.....	5133	20-D.	10 00
James G. Knox.....	512	27.	5 00
Isaiah Suite.....	3502	20-D.	10 00
Angelo Abbiticola.....	Land in town of German Flats.	55.	26 00
C. O. Eddy.....	1120-1877-1886.		
Alvin A. Putman.....	516-517	17.	13 00
Neal Gleason.....	4191-4193	30.	10 00
N. F. Van Vranken.....	2363	14.	30 00
E. S. Kendall.....	87-93-94	5.	30 00
Jacob Gleason.....	Land in gravel pit at Palmyra.	14.	10 00
James Hayes.....	2213	73.	25 00
Lawrence Gannon.....	2550	25.	20 00
Frank Reynolds.....	436-438	25.	20 00
Warren N. Collins.....	410-412	14.	25 00
Geo. A. Rioux.....	2209-2212-2113	77.	5 00
Harry Peck.....	3210	14.	35 00
H. E. Fisk.....	655	20-B.	
	4504	20-D.	5 00
L. O. Wittfeldt.....	4060-4061	20-C.	15 00
G. T. Whitman.....	4022	20-B.	20 00
Mary Reinhardt.....	4838	25.	15 00
Jerry Crowley.....	466	14.	25 00
A. Fellows.....	2365	14.	25 00
Lewis L. Fellows.....	2360	30.	5 00
Angelo Bucciere.....	3252	20-D.	10 00
Patsy Cassell.....	4413	42.	10 00
Thomas Toomey.....	1844	27.	5 00
Joel Dickenson.....	492-493-494	77.	5 00
Robert A. Collins.....	2934	Land east of Newport, near bridge 99.	10 00
Seeley Parto.....			
W. E. Thomas (season of 1919 and 1920).....	1585-1605-1608.	42.	20 00
Chas. F. Orlop.....	H-156 and H-159	14.	25 00
Levi D. Blanchard.....	498	27.	5 00
E. S. Lamerson.....	3480-3481-3676	30.	65 00
Anthony Carboni.....	T-800.	Ter. 36.	10 00
Mrs. Julia Russell.....	503	27.	5 00
Geo. Lavigne.....	2269-2362	14.	75 00
Frank T. Pearse.....	2213-2359	14.	75 00
Charles Paulfus.....	2633-3660	20-C.	25 00
Adam Van Vranken.....	2356	14.	37 50

APPENDIX E—(Concluded)

NAME	Parcel	Contract	Amount
Pietro Gentile.....	{ 4483-4486-4487..... }	65.....	\$5 00
F. W. Schmidt.....	4535-4536.....	63.....	5 00
Dan Carswell.....	2514-3146.....	3.....	30 00
Wm. Brady.....	112-113-131-132-133.....	27.....	5 00
James V. Longshore.....	498.....	14.....	25 00
P. L. Wilkins.....	{ 643..... }	20-D.....	5 00
M. W. Roberts.....	4026.....	27.....	60 00
Fred E. Bastian.....	1849.....	42.....	20 00
L. R. Clark.....	Old canal lands in town of Galen	163.....	7 00
Oscar W. Dauchy.....	5341.....	163.....	7 00
Frank Allen.....	5342.....	76.....	35 00
Mary E. McDonnell & Bro. (season of 1921).....	Various parcels.....	71-A.....	12 50
	2147.....		\$4,091 75

APPENDIX "F"

Received for Rentals other than for Farming Purposes

Thomas R. Crane, Assistant Superintendent, from:

C. L. Larrabee, temporary use of land adjacent to Schenectady-Scotia bridge	\$15 00
J. W. Shults, use of land and privilege of maintaining buildings and driveway thereon, Canajoharie. Rental two years	70 00
John W. Lepert, annual rental of use of land and privilege of maintaining ice house thereon on parcel 4060 of Barge Canal Contract No. 20-D.....	25 00
N. Bottiglieri, for use of land along old Champlain canal, Whitehall. Rental, three years	30 00
P. J. Cawley, Assistant Superintendent, from:	
E. D. Emerson, annual rental of house at Baldwinsville..	96 00
T. Cronin, annual rental of house at Baldwinsville.....	96 00
Frank M. Williams, State Engineer, rentals collected for use of property embraced in Barge Canal Terminal Contract No. 70	225 20
Vacuum Oil Co., annual rental for use of land on west bank of Genesee river in the city of Rochester.....	50 00
Wm. R. Lowden, temporary rental of building on parcel 5147, contract "C"	80 00
Wm. Baker, annual rental of boat house at Gowanus bay....	100 00
Charles J. Servoss, annual rental for use of land between Barge and old canal near Macedon.....	10 00
Patrick Casey, annual rental of land in parcels 1382 and 1670, Barge Canal Contract No. 46.....	25 00

David Seaton, semi-annual rental for privilege of maintaining lunch wagon on State land near South Washington Street bridge, Rome	12 50
Remington Arms and Ammunition Co., annual rental for privilege of maintaining building on berme side of canal between bridges Nos. 153 and 154 at Ilion.....	200 00
Consolidated Light & Power Co. for privilege of maintaining transmission line from Whitehall to Dewey's bridge at 25c. per pole per year	80 50
Albert Pilkey, rental of land near Hinmansville lock, Oswego canal. Annual rental	10 00
The Phoenix Iron & Foundry Corporation, annual rental for privilege of constructing and temporarily maintaining a portion of building within parcel 4620 of Barge Canal Contract No. 39	15 00
Quigley Furniture Co., annual rental for privilege of constructing and maintaining addition to its plant on berme side of old Erie canal at Whitesboro.....	30 00
H. P. Hamlin, annual rental of land near Railroad street bridge, Ilion	30 00
F. W. Wooley, annual rental for use of land and privilege of maintaining building thereon at Ilion.....	50 00
Adirondack Electric Power Corporation, for privilege of maintaining transmission line between Mechanicville and Watervliet. Rental—three years.....	390 00
The Western Block Co., annual rental of land on Market street, Lockport	50 00
David I. Snell, annual rental for privilege of maintaining platform scale on berme bank of old Erie canal east of Canajoharie	5 00
J. W. Shults, for privilege of constructing and maintaining coal office and scales on State land, Canajoharie. Rental—three years	90 00
Canajoharie Milk Co., annual rental for privilege of maintaining building on State land, Canajoharie	20 00
Philip Sevelan, rental of land at Lyons and privilege of maintaining building thereon. Rental—three years.....	15 00
Flagg Storage Warehouse Co., use of land near Canal and Townsend streets, Syracuse. Rental—three years.....	150 00
Adirondack Electric Power Corporation, annual rental for maintaining transmission line from Watervliet to Lock No. 1, Albany	75 00
Philip J. Welch, annual rental of privilege of maintaining building between Montgomery street and Little Canal basin, Albany	25 00
Wm. G. Humphrey, for privilege of maintaining building on west side of canal, north of Amherst street, Buffalo. Rental—three years	75 00

Rome Merchant Iron Mills, annual rental for privilege of maintaining side track on State land, Rome.....	12 00
New York State Railways for privilege of maintaining line on State land at Bushnell's Basin. Rental—four years.....	5 00
Adirondack Light & Power Corporation, for privilege of maintaining transmission line in Watervliet. Rental—three years	81 00
George F. Elliott, annual rental for use of land along old Erie canal at foot of Amherst street, Buffalo and privilege of maintaining building thereon	50 00
	<hr/>
	\$2,293 20
	<hr/> <hr/>

APPENDIX "G"

Received for Use of Canal Waters by Industrial Establishments

Fulton Light, Heat & Power Co., for use of surplus waters at Fulton from November 1, 1919 to November 1, 1920.....	\$7,120 68
The Upson Company, annual rental for use of surplus waters from upper level of improved canal at Lockport.....	200 00
Iroquois Pulp & Paper Co., for use of surplus waters impounded at Northumberland dam. Rental—two years....	7.000 00
Lockport and Newfane Mill Owners' Association in payment for water to be furnished between the dates of January 6, 1920, and January 6, 1921	\$7,500 00
Less rebate for water the State was unable to furnish between the dates of July 6, 1919, to July 6, 1920	5,086 35
	<hr/>
	2,413 65
Solvay Process Co., annual rental for privilege of taking water from Seneca river, the same to be returned by way of Onondaga lake	400 00
	<hr/>
	\$17,134 33
	<hr/> <hr/>

APPENDIX "H"

Received for reconveyance of land

NAME	Map number	Contract	Date of deed	Amount
1919				
Michael P. McKittrick.....	{ 484-A, 485-A..... }	No. 27.....	Dec. 3.....	\$702 50
Martin Patten.....	{ 484-B, 485-B..... }	No. 25.....	Dec. 4.....	726 96
Jarvis P. O'Brien.....	477-A, 480-A.....	No. 27.....	Dec. 4.....	254 75
George Fisher.....	486-A.....	" D ".....	Nov. 6.....	50 00
New York, Ontario & Western Railway Co. (United States Railroad Administration)...	5003..... 296-A, 297-A, 298-A 556-A, 559-A, 560-A 562-A, 563-A, 564-A 567-A, 677-A, 566-A 1380-A, 1381-A.....	No. 10.....	Oct. 11.....	109 00
1920				
Leonard & Augusta Grulich...	4131-A.....	No. 37.....	Jan. 6.....	25 00
Frances A. Cregier.....	2023-A.....	No. 14.....	Jan. 15.....	30 00
Simon Reef.....	1176-A.....	No. 66.....	Jan. 22.....	500 00
Champlain Silk Mills.....	365-F.....	No. 15.....	Jan. 1.....	600 00
Erskine C. Rogers.....	474-A, 902-A.....	No. 25.....	Jan. 24.....	807 80
Warren N. Collins.....	410-A.....	No. 25.....	Feb. 21.....	325 00
Walter Bradly.....	3470-A.....	No. 80.....	Mar. 9.....	75 00
Oswego Falls Pulp & Paper Co.	1071-A.....	No. 10.....	Mar. 9.....	1 113 20
Seaman Garline.....	1622-A.....	No. 30.....	Mar. 16.....	100 00
James T. Bennett.....	766-A.....	No. 9.....	April 9.....	150 00
Salt Springs Solar Coarse Salt Company.....	T-121-D.....	Ter. No. 20.....	April 17.....	4,314 00
H. P. Westcott.....	4636-A, 4637-A.....	" C ".....	April 17.....	700 00
Patrick T. Casey & Catherine Casey.....	1382-A.....	No. 46.....	May 5.....	15 89
Irving & Florence L. Failing...	1620-A, 1618-D.....	No. 30.....	May 13.....	100 00
Thos. N. and Lena A. Thompson.....	4194-A.....	No. 30.....	May 13.....	75
Peter N. and Elsie A. Thompson	4195-A.....	No. 30.....	May 13.....	75 00
Wm. Dibble.....	476-D.....	No. 25.....	May 26.....	158 00
William B. Landreth.....	1726-C.....	No. 14.....	June 3.....	138 00
Oswego Falls Pulp and Paper Co.....	391-A, 392-A.....	No. 10.....	June 4.....	327 80
Alice Flannigan.....	472-A.....	No. 25.....	June 18.....	210 35
Alice Flannigan.....	903-A.....	No. 25.....	June 22.....	167 30
Alfred J. and Florence N. Taylor.....	499-A.....	No. 27.....	July 15.....	10 20
Frank B. Stickle.....	3377-A.....	No. 12.....	July 22.....	62 07
William R. Lowden.....	5147-A.....	" C ".....	July 28.....	600 00
Alfred J. Taylor and wife.....	501-A.....	No. 27.....	July 30.....	112 60
Elmer J. West.....	{ 288-D..... }	No. 8.....	Aug. 4 and	
	{ 4737-D..... }	No. 20-D.....	Aug. 6.....	3,526 20
Francis O'Donnell.....	4477-A.....	No. 65.....	Sept. 15.....	100 00
Kavanaugh Knitting Co.....	{ 47-A, 48-A, 49-A..... }	No. 2.....	Nov. 24.....	500 00
	{ 50-A, 51-A, 52-A..... }			
				\$31,761 62

APPENDIX "I"

Received for Sale of Sand and Gravel

Thomas R. Crane, Assistant Superintendent, from:	
Southside Coal Co., for 180 cu. yds. of material from bank at Little Falls	\$36 00
Bennett & Billington, for 25 cu. yds. of material from bank at Canajoharie	3 75
Sale of 33 cu. yds. of material from Schuylerville bank..	8 25
P. J. Cawley, Assistant Superintendent, from:	
W. J. Luke, for 47 loads of gravel from bank at Brewerton	11 75
Lawrance Doran, for 213 cu. yds. of material taken from site of Barge Canal Contract No. 18-A at Little Falls.....	42 60
Warren Brothers Co., for 1,836 cu. yds. of material from bank at Mill street, Rome.....	918 00
Brown & Lowe Co., for 500 cu. yds. of material from bank west of Schenectady	80 00
Maurice Grady, for sand taken from bank at Fonda.....	187 40
Village of Fultonville, 24 cu. yds. of material taken from parcel 4060 of Barge Canal Contract No. 20-D.....	2 40
Lathrop, Shea & Henwood Co., for 2,050 cu. yds. of gravel for use on Barge Canal Contract No. 148.....	205 00
	<hr/>
	\$1,495 15

APPENDIX "J"

Received from Sale of Material other than Sand and Gravel

Thomas R. Crane, Assistant Superintendent, from:	
Mohawk Valley Waste & Metal Co., for old iron from 12th Street bridge, Troy.....	\$1,424 12
Eli Newell, 12 tons of scrap iron.....	120 00
Sale of 11 oil barrels.....	8 80
Sale of 7,770 lbs. of scrap iron at 75c. per cwt.	58 25
Sale of slate from house at Crocker's Reef.	13 00
	<hr/>
	\$1,624 17
P. J. Cawley, Assistant Superintendent, from:	
M. A. Luire, in payment for old iron from Virginia Street bridge, Waterloo.....	\$25 00
Isaac Coleman for old iron from vicinity of Mud Lock	10 00
I. Alderman, for old bridge at Shaw street, Fulton	100 00
H. F. Hoffman, for steel sheet piling from vicinity of lock 22.....	1,148 00
Sale of junk from State yard at Waterloo.	116 05
	<hr/>
	1,399 05

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Charles McDonough, Assistant Superintendent,
from:

James D. Bashford, for old plank from bridge No. 21 at Lyons.....	\$55 00	
Peter Lerow, for old iron from bridges and locks	336 50	
Rochester Iron & Metal Co., old iron from Emerson Street bridge, Rochester.....	197 25	
S. Snyder Corporation, old iron from Caledonia Avenue bridge, Rochester.....	571 12	
H. M. Littel, Superintendent of Repairs, for sale of old plank from bridges Nos. 9 and 40, Section 8, Erie.....	70 00	
James McCabe, for old iron from vicinity of locks 53 and 54.....	100 00	
Rochester Iron & Metal Co., in payment for old iron from bridges, Rochester:		
Lexington avenue	478 25	
Caledonia avenue	370 25	
H. Falk, for iron from West Avenue bridge, Rochester	99 98	
City of Rochester, in payment for 5,500 paving brick	123 75	
Town of Galen, in payment for old angle iron	69 00	
Sale of scrap iron from State yard, Buffalo.	18 00	
		2,489 10
Wilkes D. Dodge, General Inspector, from:		
H. Falk, for old iron from bridge No. 40 at Macedon.....		92 33
Frank P. Keenan, Private Secretary, from:		
Michael J. Irwin, for junk removed from Greenpoint terminal		115 00
Scott Brothers, for 616.3 cu. yds. of stone used on Barge Canal Contract No. 187		308 15
		<u>\$6,027 80</u>

APPENDIX "K"

Received for Sale of Buildings

Charles McDonough, Assistant Superintendent, from:

Charles J. Casaretta for old shanty near culvert No. 30..	\$25 00
G. A. Hicks for old shanty at King's Point.....	25 00
George W. Hall for building at Holley trough.....	50 00
Wheaton Matthews for building on parcel 2153 of Barge Canal Contract No. 21.....	100 00
Patrick Ryan for building on Terminal Contract No. 20 at Syracuse.	25 00
C. N. Onderkirk for lock shanty from old lock 31, Erie canal..	20 00

William T. Jacklin for building known as "Kalt house" located on Mount Hope avenue, Rochester.....	710 00
	<hr/>
	\$955 00
	<hr/>

APPENDIX "L"

Revenue from Hudson bridge and Congress street bridge.

*Hudson Bridge**Received for freight and passenger privileges:*

Albany Southern Railroad Company:

1919

November	\$310 62
December	347 87

1920

January	289 97
February	149 71
March	248 97
April	299 13
May	384 15
June	366 17
July	435 46
August	398 51
September	352 60
October	311 89

 \$3,895 05

United Traction Company:

1919

November	\$1,794 83
December	1,997 83

1920

January	1,987 31
February	1,679 09
March	1,631 57
April	1,748 12
May	1,705 95
June	1,600 10
July	1,712 42
August	1,667 52
September	1,772 22
October	1,867 02

 21,163 98

Municipal Gas Company, annual rental for privilege of main- taining cable for transmission of electricity.....	50 00
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 \$25,109 03

*Congress Street Bridge**Received for freight and passenger privileges:*

United Traction Company:

1920		
May	.....	\$196 05
June	.....	833 33
July	.....	833 33
August	.....	833 33
September	.....	833 33
October	.....	833 33
Gilford H. Hunt, on account of settlement for damages to traffic gate of bridge.....		40 00
H. A. Ingraham, Chief Operator, from:		
Block Iron & Metal Co., in payment for junk.		65 00
		<hr/>
		4, 467 70
		<hr/>
		\$29,576 73
		<hr/>

APPENDIX "M"

Fees and Licenses

Received from inspectors of steam vessels, being fees collected for inspection of boats and issuance of original and renewal of licenses during the year 1920, pursuant to Chapter 42, Laws of 1909:

1920		
March	.....	\$9 00
April	.....	124 50
May	.....	169 00
June	.....	394 50
July	.....	586 50
August	.....	855 50
September	.....	109 50
October	.....	6 00
November	.....	3 00
		<hr/>
		\$2, 257 50
		<hr/>

APPENDIX "N"

*Ice Privileges**Received for privileges granted for cutting ice:*

Thomas R. Crane, Assistant Superintendent, from:

Victor Bourgois	.....	\$75 00
Yerdon Brothers	.....	31 25
Robert McPherson	.....	3 13
Sheffield Farms Co., Inc.	.....	12 50
Edward Quackenbush	.....	12 50
Borden Farm Products Co., Inc.	.....	18 75
Miller Brothers	.....	31 25
Albert Hoffman	.....	12 50

Shaughnessy Ice Co.....	395 00	
John H. Rogers.....	12 50	
William F. Dotter.....	100 00	
D. McCarthy.....	87 50	
James J. Collins.....	12 50	
A. Rioux.....	75 00	
Bierbauer Brewing Co.....	12 50	
C. B. Nicholson.....	25 00	
Kolicswood Lumber Co.....	25 00	
Borden Farm Product Co., Inc.....	12 50	
Floyd House.....	12 50	
Mrs. James Peer.....	6 25	
William Dotter.....	50 00	
Niskayuna Ice Co.....	50 00	
W. M. Evans Dairy Co.....	25 00	
William Shover.....	12 50	
Alex Yates.....	6 25	
G. T. Whitman.....	12 50	
S. H. Knapp.....	6 25	
John Brookman.....	12 50	
		\$1,148 13
P. J. Cawley, Assistant Superintendent, from:		
D. Copeland.....	\$75 00	
J. H. Benson.....	12 50	
R. A. Thomas.....	6 25	
Stephen Stuber.....	6 25	
C. E. Witter.....	25 00	
Joseph A. Lenway.....	3 13	
E. A. Cronk.....	5 00	
Boonville Milk & Creamery Co.,.....	3 13	
D. Copeland.....	37 50	
		173 76
New York, Ontario & Western Railway Co.....		258 33
		\$1,580 22

APPENDIX "O"

Miscellaneous Receipts

Thomas R. Crane, Assistant Superintendent, from:

American Railway Express Co., refund for 50 lamps broken in shipment to Whitehall.....	\$16 75
Schenectady Railway Co., in settlement of claim for damages to eastern division automobile.....	25 13
United States Railroad Administration refund for overcharge on freight on shipment to Cohoes.....	1 35
Sweet & Doyle, refund for hardware lost in transit.....	15 02
Holler-La Du Corporation, rental of boat "Ethel" and derrick boat and crew, 15 days.....	650 00

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Holler-La Du Corporation, in payment for 5 tons of junk, 3 lamps and 2 snubbing posts.....	168 06
Charles McDonough, Assistant Superintendent, from Lupfer & Remick, for use of dredging equipment, six and one-half days and coal for same	202 15
Wilkes D. Dodge, General Inspector, from sale of 1912 Metzger automobile	100 00
John A. O'Connor, Engineer, from The Lawrence Cement Co., refund for cement sacks returned, Chadakoin river improvement work	28 90
B. C. Rathbun, Inspector, from New York Central Railroad Co., refund for overcharge on freight bill.....	10 20
New York Central Railroad Co., refunds on overcharges on shipments to Pittsford, in connection with completion of Contract No. 63-A, as follows:	
During April, 1918.....	855 73
During May, 1918	84 31
George W. Chambers, contractor, Barge Canal Terminal Contract No. 70, in payment for materials in buildings on terminal site, Rochester, as per contract.....	3,500 00
City of Amsterdam, unexpended balance of funds deposited by it on account of Barge Canal Contract No. 118.....	2,599 78
Received for sale of maps, etc.....	194 00
New York State National Bank, Albany, interest on deposits to credit of Superintendent of Public Works.....	988 25
John E. Winnie, Statistician, amounts paid to him for filing liens, mortgages, and making searches of canal boats during the year 1920	23 50
	<hr/>
	\$9,463 13
	<hr/>

Statement of proposals received and contracts awarded by the Superintendent of Public Works during the year 1920, pursuant to Chapter 147, Laws of 1903, and amendments thereto, known as "Barge Canal Act."

Contract No. 204:

I. M. Ludington's Sons Inc., Rochester, N. Y.....	\$4,500 10
William Bailey & Co., Rochester, N. Y.....	4,864 60
George H. Buckland, Rochester, N. Y.....	5,034 30
W. F. Martens, Rochester, N. Y.....	6,434 00
Awarded to I. M. Ludington's Sons, Inc.	<hr/>

Contract No. 194 (revised):

W. F. Martens, Rochester, N. Y.....	\$37,114 00
Dunbar & Sullivan Dredging Co., Detroit, Michigan.....	37,420 00
American Pipe & Construction Co., Philadelphia, Pa.....	91,039 00
Awarded to W. F. Martens.	<hr/>

Contract No. 202 (revised):

James Stewart & Co., Inc., New York City.....	\$547,500 00
No. award.	

Contract No. 186:

Scott Brothers, Rome, N. Y.....	\$49,854 00
No. award.	

Statement of proposals received and contracts awarded by the Superintendent of Public Works during the year 1920, pursuant to Chapter 746, Laws of 1911, and amendments thereto, known as "Barge Canal Terminal Act."

Contract No. 28-A:

Eugene Dawley, Cleveland, N. Y.....	\$13,260 00
W. F. Martens, Rochester, N. Y.....	16,084 00
Munger & Lansing, Syracuse, N. Y.....	18,945 00
Holler-La Du Corporation, Albany, N. Y.....	19,775 00
Mohawk Dredge & Dock Co., Inc., Herkimer, N. Y.....	20,800 00
Awarded to Eugene Dawley.	

Contract No. 19-P.

The Hastings Pavement Co., New York City.....	\$24,123 00
Charles A. Myers Construction Co., Brooklyn, N. Y.....	24,875 00
Caleb & Hyatt, Scarsdale, N. Y.....	25,555 00
Awarded to The Hastings Pavement Co.	

Contract No. 219:

The Snare & Triest Co., New York City.....	\$618,548 00
A. E. Stephens Co., Springfield, Mass.....	648,692 75
Post & McCord, New York City.....	717,884 25
Awarded to The Snare & Triest Co.	

Contract No. 104:

T. Frederick Jackson, Inc., New York City.....	\$17,293 00
Jandous Electric Equipment Co., Inc., New York City.....	17,682 50
Awarded to T. Frederick Jackson, Inc.	

Contract No. 71:

I. M. Ludington's Sons, Inc., Rochester, N. Y.....	\$306,750 00
Brown & Lowe Co., Schenectady, N. Y.....	338,763 00
Grant Smith & Co., Utica, N. Y.....	339,709 00
Lupfer & Remick, Buffalo, N. Y.....	356,835 50
Awarded to I. M. Ludington's Sons, Inc.	

Contract No. 224:

Post & McCord, Inc., New York City.....	\$150,486 25
Equity Engineering Co., Inc., New York City.....	162,894 12
Awarded to Post & McCord, Inc.	

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Contract No. 223-P:

Thomas E. O'Brien, Inc., Brooklyn, N. Y.....	\$9,735 00
Awarded to Thomas E. O'Brien, Inc.	

Contract No. 26-A:

W. F. Martens, Inc., Rochester, N. Y.....	\$33,940 00
No award.	

Contract No. 53-A:

Grant Smith & Co., Utica, N. Y.....	\$579,830 00
Empire Engineering Co., Inc., New York City.....	596,381 00
Great Lakes Dredge & Dock Co., Buffalo, N. Y.....	621,487 00
No award.	

Contract No. 76:

Mohawk Dredge & Dock Co., Inc., Herkimer, N. Y.....	\$22,520 00
Empire Engineering Co., Inc., New York City.....	22,825 00
Awarded to Mohawk Dredge & Dock Co., Inc.	

Contract No. 114:

Heyl & Patterson Inc., New York City.....	\$39,714 00
Shepard Electric Crane & Hoist Co., Montour Falls, N. Y....	51,940 00
Awarded to Heyl & Patterson, Inc.	

Contract No. 26-A:

Holler-La Du Corporation, Albany, N. Y.....	\$32,619 50
Awarded to Holler-La Du Corporation.	

Contract No. 229:

New England Foundation Co., Boston, Mass.....	\$34,826 25
I. M. Ludington's Sons, Inc., Rochester, N. Y.....	39,845 00
H. R. Wickham, Rochester, N. Y.....	40,715 00
Awarded to New England Foundation Co.	

Contract No. 225-H:

Austin Engineering Co., New York City.....	\$4,875 00
Awarded to Austin Engineering Co.	

Contract No. 225-P:

No bids received.

Contract No. 79:

Raymond Concrete Pile Co., New York City.....	\$428,268 97
Allen M. Spooner Son, Inc., New York City.....	445,510 02
The Phoenix Construction Co., New York City.....	449,624 80
The Snare & Triest Co., New York City.....	457,008 60
The Robbins Ripley Co., New York City.....	590,996 58
Awarded to Raymond Concrete Pile Co.	

Contract No. 80:

Brown & Lowe & Law Brothers, Schenectady, N. Y.....	\$336,412 00
Awarded to Brown & Lowe & Law Brothers.	

Contract No. 53-A (revised):

Great Lakes Dredge & Dock Co., Buffalo, N. Y.....	\$435,000 00
Grant Smith & Co., Utica, N. Y.....	471 185 00
Houston Barnard, Rochester, N. Y.....	526,035 00
Awarded to Great Lakes Dredge & Dock Co.	

Statement of proposals received and contracts awarded by the Superintendent of Public Works during the year 1920, pursuant to Chapter 391, Laws of 1909, for the improvement of the Cayuga and Seneca canal.

Contract "S":

W. F. Martens, Rochester, N. Y.....	\$7,990 00
General Electric Co., Schenectady, N. Y.....	9,000 00
No. award.	

Statement of proposals received and contracts awarded by the Superintendent of Public Works during the year 1920, pursuant to special acts of the Legislature.

Schenectady-Scotia bridge, abutments and approaches:

(Chapter 147, Laws of 1903, and amendatory and supplementary laws and Chapters 735 and 634, Laws of 1917 and 1919)

Dubois Bennett & Son, Schenectady, N. Y.....	\$234,593 00
American Pipe & Construction Co., Philadelphia, Pa.....	255,633 10
Awarded to Dubois Bennett & Son.	

For constructing a through plate girder bridge and the improvement of Limestone creek in the village of Fayetteville, Onondaga county:

(Chapters 751 and 339, Laws of 1917 and 1918)

No bids received.

For constructing a through plate girder bridge and the improvement of Limestone creek in the village of Fayetteville, Onondaga county:

(Chapters 751 and 339, Laws of 1917 and 1918)

Lupfer & Remick, Buffalo, N. Y.....	\$49,415 00
Samuel Beakin, Beacon, N. Y.....	50,785 00
No award.	

Schenectady-Scotia bridge, piers:

(Chapter 147, Laws of 1903, and amendatory and supplementary laws and Chapters 735 and 634, Laws of 1917 and 1919)

American Pipe & Construction Co., Philadelphia, Pa.....	\$961,963 00
Awarded to American Pipe & Construction Co.	

EASTERN DIVISION

REPORT OF THE ASSISTANT SUPERINTENDENT OF PUBLIC WORKS

OFFICE OF THE

ASSISTANT SUPERINTENDENT OF PUBLIC WORKS,

SCHENECTADY, N. Y., *December 31, 1920.*

HON. EDWARD S. WALSH, *Superintendent of Public Works,*
Capitol, Albany, N. Y.:

SIR.— I respectfully submit herewith the annual report of the Eastern Division of the Canals for the fiscal year July 1, 1919, to June 30, 1920, both inclusive.

This division comprises that portion of the Erie canal extending from Waterford to the easterly line of Oneida county, and the entire Champlain canal from Waterford to Whitehall; also the unimproved Erie canal from the southerly end of the Albany basin to the junction of the old Erie and Champlain canals in Watervliet (including the upper and lower sidecuts, Watervliet), and the old Champlain canal from the junction of the Erie and Champlain canals at Watervliet to the lift-bridge at Waterford; and the Glens Falls feeder.

Navigation opened promptly on the date scheduled by you and was continued during the entire season without interruption, with the exception of one period of about forty-eight hours, when boats were delayed on account of high water in the Mohawk river.

Extensive repairs have been made to the apron of movable dam at Barge Canal Lock No. 8. This work progressed satisfactorily until the winter season set in when work had to be stopped. In my judgment this work must be resumed the coming season.

The work of repairing and remodeling Guy Park Manor House at Amsterdam, N. Y., has been completed and the Manor House

is ready to be turned over to the Daughters of the American Revolution. The improvement to this property has made a great change in the appearance of the building and also the appearance of the grounds surrounding the same.

The roadway of the old bridge spanning the Mohawk river between Scotia and Schenectady, namely, the Mohawk river bridge, has been resurfaced with asphalt. On account of the dilapidated condition of this bridge and the danger connected with the same, there have been placed watchmen to regulate the traffic so that heavy loads would be diverted to some other crossing and not cross this bridge on account of the danger. By so doing, no accidents have occurred during the past season on this bridge.

The roadways on the bridges crossing the Mohawk river at Lock 9, Rotterdam, and also bridge known as Freeman's bridge, have been resurfaced with asphalt instead of the old method of planking, which resurfacing makes a better and safer roadway.

Drakes drawbridge spanning Minisceongo creek has been thoroughly overhauled by the Department and placed in a safe condition for all classes of traffic.

The construction of the Great Western Gateway is progressing very rapidly. The approach on the Schenectady end is about completed. The approach on the Scotia end is progressing very rapidly in regard to the fill for the approach. The above contract is being handled by DuBois, Bennett & Company. The American Pipe & Construction Company, having the contract to erect the piers, have about completed one pier on the Schenectady end and have the second one started.

The roadway leading to Lock 9, Rotterdam, has been resurfaced and repaired. The grounds surrounding various locks on the Mohawk river section of the Erie Barge canal and the Hudson river section of the Champlain canal have been greatly improved in regard to necessary fills, ditching, grading and repairs to the approaches to the grounds. Also, the power stations and other parts to the locks have been painted and cleaned in a suitable manner, which gives a fine appearance to these locks.

Delays to navigation during the past season have been very negligible. In a few instances delays might have been for a

few hours only, caused by high water, which was promptly taken care of by the employees on the various dams, who regulated conditions so that navigation could be resumed.

I wish also to state that there has been very little complaint about buoy lights being out, also about buoys being misplaced, which is a great satisfaction to this division.

The approaches to the Barge canal bridges have all been repaired and improved where necessary.

I wish to be emphatic in regard to painting of the super-structures and sub-structures of the various locks and dams and bridges on my division. It is absolutely necessary to have this work attended to the coming season as a great many of these structures show a condition of rust and lack of paint.

Several of the bridges spanning the old canal on this division have been removed and fills made. This was done on account of the bridges being in a dangerous condition and not safe for traffic.

A serious leak occurred in the Glens Falls feeder in November, 1920, near the Hudson Valley Railroad Company's car barns. At the Hudson Valley R. R. Co's barns several large holes were found and it will be impossible to open the feeder in the spring unless these holes are fully repaired. The same condition exists at the Imperial bridge but not so bad. Also there were found two or three holes averaging 8 to 12 feet deep, 1,200 feet below the Glens Falls Portland Cement Company's plant, which will also have to be repaired. Another condition of about the same nature but not so bad exists in front of the Glens Falls Portland Cement Company's plant.

In various places on the division the channel of the canal was dredged where necessary. Also riprap placed on the banks and washwalls repaired. The work of repairing these banks should be continued.

The terminals at the various locations on this division during the past season have been exceedingly busy handling freight in connection with the canals.

The boat crew division, which is comprised of dredges Nos. 1 and 3 and also tugs "Schenectady" and "Amsterdam," have rendered excellent service to this department in the past season in regard to terminals. As this is a very small fleet, I consider the work which they have done has been very excellent. The tugs

on several occasions have assisted in towing boats, which has helped the boatmen greatly.

In April a slide occurred in the cut just east of the Washington street bridge, at Herkimer, on the south slope between Stations 4671 and 4678. The toe of the slope slid out to about the center line of the canal, forcing the steel sheet piling into the canal prism. This was a very bad slide of blue clay, closing about thirty-five feet of the channel and the towpath had cracked and the heel of riprap had dropped for eighteen inches for a length of 125 feet. Division Engineer in charge at this point at this time estimated (June) about 21,000 yards of clay to be removed. This slide has since been fully repaired. Conditions at this point at Herkimer should be taken up with the engineers early in the spring, as another slide may occur.

During the period of high water in the Mohawk river in November, boats that were being towed near the Herkimer terminal broke away from the tow, left the channel and went down the river and lodged against the bridge which spans the Mohawk river just above the Herkimer movable dam, doing considerable damage to the bridge. It took several hours before the boats could be released and started on their way east. This was due entirely to the high water and swift current at that point. I would recommend that three cribs be placed in the river opposite the Herkimer terminal, extending within the vicinity of the needle-dam. In my judgment this would avoid an occurrence of this kind in future.

Approximately one-half of the two easterly arches of Chuctaunda creek, South Amsterdam, have been removed and a wooden bridge erected to replace the towpath. This work was started to relieve flood conditions in the spring, but has not been completed because of the difference of opinion between the State and the H. C. Grieme Company. I would recommend that this matter be taken up with the Attorney-General and the difficulties adjusted and the work finished before possible high water in the spring, because overflowing of the banks in the past has been the cause of large claims against the State.

I have caused to have examined the different piers on the old Mohawk river bridge between Schenectady and Glenville, to ascertain their degree of safety. The same were found, in some

instances, to be in very bad condition. Repairs were made immediately to these piers by placing riprap around the same.

Financial statements showing ordinary expenditures from July 1, 1919, to June 30, 1920, both inclusive, are herewith attached:

During the past season there has been made and furnished from the State shop at Cohoes, and distributed to the different sections, and the dredges and tugs, manufactured materials representing money values as follows:

Section No. 1, Erie canal.....	\$1,977 35
Section No. 2, Erie canal.....	717 79
Section No. 3, Erie canal.....	1,400 54
Section No. 4, Erie canal.....	482 35
Section No. 1, Champlain canal.....	213 00
Section No. 2, Champlain canal.....	216 50
Section No. 3, Champlain canal.....	136 74
Eastern Division	6,264 77
Middle Division	181 17
Western Division	181 17
Tug "Schenectady"	1,029 92
Tug "Schenectady"	800 98
Inspector No. 1.....	135 16
Dredge No. 1.....	2,312 32
Steam pump	1,133 22
Dredge No. 3.....	359 73
Old mud scows.....	1,621 64
New mud scows.....	4,182 29
Ice breaker	994 17
House boat	158 16
Auto truck	582 41
New house boat.....	2,897 25
Tug "Rhobie"	155 07
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Total.....	\$28,133 70

In concluding this report, I wish to express my deep appreciation of the loyalty and support given me in my official duties by all of the employees of this division.

T. R. CRANE,

Assistant Superintendent.

DETAILED STATEMENT OF Expenditures on the Eastern Division of the canals by T. R. Crane, Assistant Superintendent
of Public Works, from July 1, 1919 to June 30, 1920, both inclusive

	Eastern division	Erie Canal				Champlain Canal				Total	Grand totals
		Section 1	Section 2	Section 3	Section 4	Section 1	Section 2	Section 3	Section 4		
General supervision:	\$11,460 00									\$11,460 00	\$11,460 00
Salaries, regular:	31,262 50									31,262 50	31,262 50
General field and shop force:	6,497 96									6,497 96	6,497 96
Boat crews division:	10,311 96									10,311 96	10,311 96
Section maintenance forces:											
Prize lock competition:											
Maintenance and operation:											
Fuel, light, power and water:	9,948 41	544 46	6,361 79	3,373 45	1,740 63	1,469 49	1,602 65	395 77		25,438 65	25,438 65
Advertising:	102 00	102 00	90 16	68 97		114 97	61 26	112 07		539 36	539 36
Communication:	402 61	402 61	969 41	1,094 43	530 81	715 24	430 89	412 04		6,024 08	6,024 08
Travelling expenses:	1,483 40	304 13	1,036 00	871 68	600 63	869 77	448 84	557 49		14,098 08	14,098 08
Equipment, supplies and materials:	9,606 79		5,662 40	5,562 28	7,033 21	5,281 58	11,962 64	8,116 73		81,758 30	81,758 30
	34,070 91	4,188 56									
Rents:	648 00		310 00				125 04			\$1,083 04	127,877 46
Payment of small claims:	59 00		5 00							64 00	1,083 04
Construction and permanent better- ments:											
Removal of bridges:			1,408 25	3,594 15	442 00	3,031 34				8,475 74	8,475 74
Ditching Part 3:	1,650 55		700 86		1,673 50					4,024 90	4,024 90
Repairs Part 3:	132,256 03	13,343 31	18,326 72	31,780 13	84,925 38	2,936 89	23,147 22	8,991 99		265,710 67	265,710 67
Repairs, Guy park house:	3,749 50									3,749 50	3,749 50
General plant service:	96 19		758 25	746 67	3,685 50	257 50	861 40			6,439 51	6,439 51
Additional equipment:			173 00	166 00	145 50	548 67	116 80			1,148 97	1,148 97
Totals:	\$253,106 20	\$33,570 00	\$45,639 43	\$51,914 11	\$64,561 16	\$30,438 13	\$56,889 63	\$24,636 63		\$550,755 29	\$550,755 29

ANNUAL REPORT, showing the different items of expenditure and the cost of each, July 1, 1919, to June 30, 1920, both inclusive, on Section No. 1, Erie Canal, in charge of J. W. Stanton, Superintendent of Repairs; also a statement of Important Repair and Improvement Work completed during the year 1920.

	Expenditures
Superintendent repairs	\$1,782 00
Disbursing clerk	1,200 00
Lockmaster	1,899 96
Assistant Lockmaster.	6,399 84
Lock operator	23,310 00
Lock helper	11,325 00
Guard-gate tender	1,889 62
Lock tenders (13).....	4,322 50
Lock tenders (9).....	2,835 00
Winter night watch.....	548 00
Bridge tender, Watervliet	210 00
Water and bank watch.....	760 00
Water and bridge watch.....	780 00
Carpenter.	784 00
Total.....	<hr/> \$58,596 08 <hr/>

REPAIRS AND IMPROVEMENTS

New needle beams and stringers placed on Bridge No. 7 and Thirteenth and Sixteenth street bridge, Watervliet.

Gates, iron work, etc., at Locks Nos, 2, 3, 4, 5 and 6, Barge canal, cleaned and painted.

Weeds and brush cut and burned along entire section.

Roadway at dyke, Cohoes to Green Island, filled in and repaired, also roadway at swing bridge from Watervliet to Green Island.

All bridges on section have been kept in repair, and the following bridges have been painted: Cedar street, Cohoes; Nos. 4 and 5, Champlain; Fourteenth, Fifteenth and Sixteenth street, Watervliet; lower Broadway bridge, and Sixth street, Watervliet.

J. W. STANTON,

Superintendent.

ANNUAL REPORT, showing the different items of expenditure and the cost of each, July 1, 1919, to June 30, 1920, both inclusive, on Section No. 2, Erie Canal, in charge of W. C. Schopman, Superintendent of Repairs; also a statement of Important Repair and Improvement Work completed during the year 1920.

	Expenditures
Superintendent repairs	\$1,782 00
Disbursing clerk	1,200 00
Lockmaster	1,900 00
Watchman (shop)	600 00
Assistant lockmasters (4).....	6,400 00
Operators (11)	14,307 04
Lock helpers (12).....	7,551 82
Buoy light tenders (5).....	3,596 29
Carpenter.	773 60
Total.....	<u>\$38,110 75</u>

REPAIRS AND IMPROVEMENTS

Stake lights taken out and moved to Lock 7 and state house.

Before opening of navigation, all buoys and stake lights were cleaned and painted, lamps repaired.

Buoys, stake lights and bridge brackets put in place to mark channel; buoys replaced where needed and painted in mid-season.

Schenectady terminal cleaned up after flood, new bucking beams placed where needed and ground around terminal house graded, cranes and conveyor painted.

River was dragged for boiler of wrecked boat Ashford.

Fill between lock wall and basin was refilled, gates repaired, new bucking beams and snubbing post put in where needed.

Gates at Lock 7 raised and lowered four or five times during the season to keep water at its normal level.

Fills at old bridges 36, 37, 67, 68, 70, 71, 72, 74 and 75 damaged by freshets, repaired, also new guard rails constructed at 36, 68, 67, 74 and 75, and new concrete culvert at bridge 67; towpath damaged by freshet, refilled.

Bridge 42 and 50 taken down and dirt fill made in its place.

Grading and filling road between Lock 9 and Rotterdam, also sign erected at Lock 9 and 10, new bucking beams placed where needed.

Road between old canal and new Barge at Crescent repaired, also bridge was painted.

Culverts between old canal and new Barge cleaned out from Lock 10 to Waterford.

Weeds on section were cut and burned.

Beams on Scotia bridge tested and timbers put in to strengthen it, also flooring repaired and resurfaced; Rotterdam and Freemans bridge surfaced and Freemans resurfaced.

State scow and derrick boat repaired.

McCullough and Martin property ripped to protect same from action of water, also the property of R. A. Hyde.

All buoys, stake lights, bridge brackets, etc., were removed and placed in winter storage.

WM. C. SCHOPMAN,
Superintendent.

ANNUAL REPORT, showing the different items of expenditure and the cost of each, July 1, 1919, to June 30, 1920, both inclusive, on Sention No. 3, Erie Canal, in charge of John H. Lynch, Superintendent of Repairs; also a statement of Important Repair and Improvement Work completed during the year 1920.

	Expenditures
Superintendent of repairs.....	\$1,782 00
Disbursing clerk	1,200 00
Shop watchman	525 00
Lockmaster	1,900 00
Assistant lockmaster, 6 at \$1,600.....	9,600 00
Lock operator, 18 at \$1,300.....	23,277 70
Lock helper, 7 months at \$90 (18).....	11,323 92
Light tender, 7 months at \$110 (6).....	3,939 31
Carpenter, 200 days at \$4.....	686 00
Total.....	<hr/> \$54,233 93 <hr/>

REPAIRS AND IMPROVEMENTS

Ice gorges at various points, on Section 3, were dynamited in the river, at the breaking up of the ice, in the early part of the year, relieving danger of damage from flood conditions.

All buoys were repaired, scraped and painted, and placed on stations previous to the opening of navigation, and removed again at the close of the season.

Prompt attention during the season of navigation was given to the replacing of all buoys to proper station, when run down or dragged out of place from any cause.

All bridges, both farm and highway, have been kept in repair during the year.

Five farm bridges over the old Erie canal, viz., bridges 83, 84, 100, 101 and 102, have been removed and fills, for crossing at grade, made.

All necessary repairs have been made to dams, lock-gates, etc., etc., and riprap work has been made at various points on weakened banks when necessary.

Weeds and grass have been cut at all of the terminals and lock grounds, and the brush and weeds have been cut, repeatedly, around the stake lights.

Grading and improving all lock grounds on Section 3 during the past season has been done, and manifest improvements have been made, particularly at Locks 11 and 12.

Obstructions menacing navigation have been removed from the canal channel at different times, and every precaution has been taken at all times to safeguard, not only the State's interest, but also to safeguard and expedite navigation on Section 3, Erie Canal.

JOHN H. LYNCH,
Superintendent.

ANNUAL REPORT, showing the different items of expenditure and the cost of each, July 1, 1919, to June 30, 1920, both inclusive, on Section 4, Erie Canal; in charge of John P. McGraw, Superintendent of Repairs; also a statement of Important Repair and Improvement Work completed during the year 1920.

	Expenditures
Superintendent of repairs.....	\$1,782 00
Disbursing clerk	1,200 00
Shop watchman	600 00
Lockmaster	1,899 84
Assistant lockmasters	4,799 52
Lock operators	8,438 13
Lock helpers	5,659 80
Buoy tenders	2,483 90
Bridge tenders	1,655 30
Bank watchman	780 00
Watchman and guard-gate.....	630 00
Lock tenders	3,705 00
Carpenter	732 00
Total.....	<u>\$34,365 49</u>

REPAIRS AND IMPROVEMENTS

Three new bridges spanning old Erie canal have been built and placed in position.

Barge canal bridges have been replanked where necessary and the old canal bridges repaired as required. Approaches to bridges on old canal and Barge canal have been repaired.

Buoys have been overhauled, painted, placed in water, reset and maintained, again removed at close of navigation. Creeks leading into the old canal and the Barge canal have been dredged to prevent flood conditions. Weeds and brush have been cut along the entire section. Terminal grounds have been kept up, debris carted away.

Old Erie canal was cleaned this year and refuse carted away.

JOHN P. MCGRAW,

Superintendent.

ANNUAL REPORT, showing the different items of expenditure and the cost of each, July 1, 1919, to February 29, 1920, both inclusive, on Section No. 1, Champlain Canal in charge of Daniel Ryan, Superintendent of Repairs.

	Expenditures
Superintendent of repairs.....	\$1,157 28
Disbursing clerk	800 00
Lockmaster	1,266 64
Assistant lockmasters (5).....	5,333 20
Lock operators (10).....	8,666 40
Watchmen (3)	1,200 00
Lock helpers (15).....	6,750 00
Buoy light tenders.....	3,300 00
Bridge tenders	675 00
Bridge and water watchmen (2).....	450 00
Bridge and water watchman (1).....	90 00
Lock tenders (5).....	1,125 00
Carpenter	524 00
Total.....	<u><u>\$31,337 52</u></u>

ANNUAL REPORT, showing the different items of expenditure and the cost of each, March 1, 1920, to June 30, 1920, both inclusive, on Section No. 1, Champlain Canal, in charge of R. A. Moore, Superintendent of Repairs; also a statement of the Important Repair and Improvement Work completed during the year 1920.

	Expenditures
Superintendent of repairs.....	\$589 05
Disbursing clerk	400 00
Lockmaster	633 38
Assistant lockmasters (5).....	2,466 76
Lock operators (10).....	4,323 60
Watchmen (3)	600 00
Lock helpers (15).....	2,700 00
Buoy light tenders (3).....	526 92
Bridge tenders (3).....	270 00
Bridge and water watchmen (2).....	180 00
Bridge and water watchman (1).....	60 00
Lock tenders (5).....	450 00
Carpenter	260 00
Total.....	<hr/> \$13,469 69 <hr/>

REPAIRS AND IMPROVEMENTS

Several bridges were removed from the old abandoned Champlain canal, concrete culverts installed to take care of the drainage and fills made across same.

All guard rails at fills across old canal were straightened up and repaired and painted.

State scows were repaired, cabin removed from one scow, and new deck installed.

All bridges on old and new canal have been repaired, planking and needle-beams replaced as required.

All buoys, lamps, etc., were overhauled and painted this spring and put in good shape before installing in river.

A tug was maintained below Lock No. 3 during the season to assist boats through dangerous cross-currents below this lock, which worked to very good advantage.

No delays to navigation.

R. A. MOORE,

Superintendent.

ANNUAL REPORT, showing the different items of expenditure and the cost of each, July 1, 1919, to June 30, 1920, both inclusive, on Section No. 2, Champlain Canal, in charge of Daniel Moy-nihan, Superintendent of Repairs; also a statement of Important Repair and Improvement Work completed during the year 1920.

	Expenditures
Superintendent of repairs.....	\$1,782 00
Disbursing clerk	1,200 00
Lockmaster	1,900 00
Assistant lockmasters (3).....	4,800 00
Operators (7)	8,991 67
Lock helpers (9).....	5,670 00
Light tender	737 00
Lock tenders (24).....	3,240 00
Lock tenders (2).....	270 00
Feed tender	420 00
Carpenter	800 00
Bank watchman, with horse.....	630 00
Bank watchman	280 00
<hr/>	
Total.....	\$30,720 67
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RECOMMENDATIONS

I would respectfully recommend, in view of the numerous leaks and breaks in the Glens Falls feeder during the past season, that the following repairs be made:

A new wall to be built between Bridge No. 10, Glens Falls feeder, and the railroad bridge, south of the Glens Falls Portland Cement Company, a distance of 600 lineal feet, and a concrete bottom for the same distance; the work should be done before the opening of navigation.

A new concrete bottom and wall north of the Glens Falls Portland Cement Company, a distance of 500 lineal feet; this is in bad condition.

A new concrete bottom should be built for a distance of 1,000 lineal feet at the F. W. Wait Lime Company, Glens Falls feeder.

A new concrete bottom should be built for a distance of 500 lineal feet, at the Finch Pruyn Company mills, Glens Falls feeder.

A new concrete wall should be built for a distance of 400 lineal feet in front of the Hudson Valley car barns, Glens Falls feeder.

A new concrete wall and bottom will have to be built at Bridge No. 8, Glens Falls feeder; it will require 200 lineal feet of concrete wall and 500 lineal feet of concrete bottom.

In Fort Edward the vertical wall has fallen down and will have to be rebuilt for a distance of 500 lineal feet before opening of navigation.

DANIEL MOYNIHAN,
Superintendent.

ANNUAL REPORT, showing the different items of expenditure and the cost of each, July 1, 1919, to June 30, 1920, both inclusive, on Section No. 3, Champlain Canal, in charge of E. F. Roche. Superintendent of Repairs; also a statement of Important Repair and Improvement Work completed during the year 1920.

	Expenditures
Superintendent of repairs.....	\$1,782 00
Disbursing clerk	1,200 00
Lockmaster	1,899 96
Assistant lockmaster	4,799 88
Lock operator	7,637 26
Lock helper	5,670 00
Bank watchman, with horse.....	630 00
Bank watchmen (2).....	560 00
Carpenter	732 00
Common labor, cleaning bridges, winter.....	270 00
	<hr/>
Total.....	\$25,181 10
	<hr/>

REPAIRS AND IMPROVEMENTS

Ten Barge canal bridges have been repaired and three Barge canal bridges repainted. Lock-gates at Locks Nos. 9 and 12 have been painted; snubbing posts and iron railings at Whitehall repainted. Well at Lock No. 9 was cleaned out. New wall pieces at Whitehall, Comstock and Lock No. 9 put in. Several wooden docks were built between Smith's Basin and Dunham's Basin for use of farmers in loading potatoes on to canal boats. Ceiling of work-house at Lock No. 12 was repaired and concrete steps at Lock No. 12 were built. Farm and old canal crossings and culverts have been repaired and concrete approach at east end of Saunders street was built. Work-house at Lock No. 9 was repainted and runways on gates of Locks Nos. 9, 11 and 12 were replanked. New slate roof was put on power house at Lock No. 9 to replace leaking slag roof. The lock forces have cleaned and painted generators in power houses and rewired control cabinets. Five water-wheels have been rebuilt Tobin bronze being used in all bolts and pins. Water-wheel governors were rebuilt at Lock

No. 11 and pumps changed to motor drive. Interior of power houses at Locks Nos. 9, 11 and 12 was repainted and woodwork outside.

EDWARD F. ROCHE,
Superintendent.

MIDDLE DIVISION

REPORT OF THE ASSISTANT SUPERINTENDENT OF PUBLIC WORKS

OFFICE OF ASSISTANT SUPERINTENDENT,

SYRACUSE, N. Y., *March 3, 1921.*

HON. CHARLES L. CADLE, *Superintendent of Public Works.*
Albany, N. Y.:

DEAR SIR.—Enclosed please find annual report of my predecessor, Mr. P. J. Cawley, for this division for the year 1920. This has been held here waiting for some of the reports of the Section Superintendents.

Yours very truly,

E. J. CLARK,

Asst. Supt. Public Works.

REPORT OF ASSISTANT SUPERINTENDENT OF PUBLIC WORKS

OFFICE OF ASSISTANT SUPERINTENDENT OF PUBLIC WORKS,

SYRACUSE, N. Y., *December 31, 1920.*

HON. EDWARD S. WALSH, *Superintendent of Public Works.*
Albany, N. Y.:

DEAR SIR.—I respectfully submit herewith the annual report of the Middle Division of the New York State canals for the year 1920.

This division comprises the Barge canal from the easterly line of Oneida county to the easterly line of Wayne county, the old Erie canal through the city of Syracuse to New London, the old Oswego canal through the city of Syracuse to Mud Lock, the Oswego canal, the Cayuga and Seneca canal and the Black River canal, together with the northern and southern reservoir systems.

The condition of the bridges throughout the city of Syracuse is such that it has been a difficult matter to keep them in running order and in a safe condition throughout this season. If this section of the old canal is to be operated during the coming season, extensive repairs to these bridges will be necessary.

GENERAL REPAIRS AND IMPROVEMENTS

Division Plant and Equipment

The following repairs were made to the various boats on the division to put them in proper condition for the season of navigation:

Overhauled machinery and repaired hydraulic dredges Nos. 11 and 12.

Built twelve new pontoons for use with these dredges.

Repaired houseboat used with hydraulic dredges.

Built rowboat for use with hydraulic dredges.

Repaired and painted motor boats on division.

Made repairs to dredge "Pathfinder" No. 10.

Repaired and painted tug "Kunze" No. 4, including piping machinery and boiler.

Repaired tug "Wheeler" No. 2, damaged by fire. Repiped and repaired machinery, rebuilt cabin and painted tug.

Repaired tug "Syracuse" No. 3 and put on iron sides.

Finished installing machinery and wiring derrick boat No. 6.

Repaired derrick boat No. 7 and overhauled and repaired operating machinery.

Repaired coal scows, dump scows and gravel scows on division.

Repaired section superintendents' motor boats.

Repaired and caulked State scow used on Section 6, Erie.

Repaired and caulked sweep boat at Phoenix.

Repaired pump boat No. 1 and installed new boiler feed pump.

Repaired and painted derrick boat No. 8 and installed gasoline engine.

The following work was done on various structures:

The roofs of various buildings were painted.

The roof of Syracuse terminal warehouse was strengthened and wiring system installed.

The gates at Saranac river locks were repaired.

Machinery at the carpenter shop and machine shop was repaired.

Flag poles were made and painted for the Barge canal locks.

Signs were made and painted for all the buoys on the division, for the various boats and for the bridges on the Black River canal.

Property and danger signs were made and erected.

Four large signs were made, painted and erected to advertise the Barge canal.

A Pierce-Arrow truck, acquired from the Highway Department, was rebuilt and painted.

The storehouse at Baldwinsville was completed and painted. This is used for the storage of material for use on the Barge canal locks and for lockmaster's office.

Dredging and Pumping Out Sunken Boats

Dredging was done at the east end of Oneida lake, at the entrance of Nine Mile creek into the Barge canal near Rome, at Utica, at the entrance of Oneida lake near Brewerton, on the Liverpool level of the old Oswego canal and north of Lock No. 3, Fulton.

Sunken boats were pumped out and removed so as not to interfere with navigation at Chittenango, Durhamville, Baldwinsville, Brewerton, Waterloo, in the Seneca river and on the long level at Syracuse.

Buoy System

The system of buoys on the division has become very extensive and the work of keeping them in proper condition is taken care of with the derrick boat No. 7.

New piles were driven for buoys on Sections Nos. 6 and 7.

Before the opening of navigation the buoys and lamps stored at various points on the canal were repaired, the buoys painted and set in Oneida, Oswego and Seneca rivers and Oneida and Cayuga lakes.

Three additional buoys were placed in Oneida lake.

The Oneida lake buoys and lighthouses were recharged. Gas was also put in the buoys on Cross lake.

At the close of navigation all the buoys were picked up and placed in storage for the winter.

Logs and snags were removed from the canal at various places so they would not interfere with navigation.

Southern Reservoir System

Strengthened floor system, replanked and repaired Bouckville bridge.

Painted Bouckville bridge and repaired iron railing.

Repaired gates of Madison feeder.

Improved roadway east side of Madison reservoir.

Repaired bridge over Madison reservoir.

Repaired various farm bridges over Madison feeder, highway bridge over Chenango feeder, bridge over Kingsley Brook feeder.

Repaired gates of Kingsley Brook feeder.

Rebuilt bridge over feeder south of Hamilton.

Rebuilt Newton and Baker farm bridges south of Hamilton.

Repaired bridge at Hamilton.

Rebuilt bridge over feeder near Tanner farm.

Built new gate house at Madison reservoir feeder.

Put new roof on gate-house, Eaton Brook reservoir.

The following work was done by division forces on the several sections:

Section 5, Erie Canal

Building and installing trash racks and repaired operating machinery of Hinckley dam.

Repaired gas engine at Hinckley reservoir.

Repaired break in Oneida feeder near Grove street, and cleaned out feeder.

Improved Oneida feeder by widening, straightening and raising east bank and deepening channel where necessary to eliminate the overflow of the banks within the city of Oneida.

Repaired State house at Hinckley reservoir.

Pointed masonry at Delta dam.

Relaid wall of feeder at Canastota.

Repaired wall at Durhamville, near dry dock.

Cleaned out under Chittenango aqueduct and removed gravel above feeder gates.

Repaired gates at Durhamville and Cowassalon aqueducts.

Repaired culvert at Canastota.

Cleaned out dive culvert east of Fort Bull and cut ditch to improve drainage.

Repaired Chittenango dam.

Relaid wall along both sides of Canastota creek and built fence.

Repaired Peterboro street lift bridge at Canastota.

Repaired Garden street bridge at Rome.

Strengthened floor system and repaired River street bridge at Oriskany.

Repaired bridge at Durhamville and the approaches.

Repaired house at New London for use of lock forces.

Made repairs at Lock No. 21.

Repaired power transmission line at Junction Lock, New London.

Section 6, Erie Canal

Overhauled and cleaned machinery and made repairs to lift bridges in the city of Syracuse preparatory to the opening of navigation.

Made minor repairs to all the lift bridges in the city of Syracuse throughout the season to keep them in running order.

Strengthened floor system, replanked and made repairs to Park street bridge, Syracuse, and painted same.

Strengthened floor system, reinforced iron work and made general repairs to Manlius Center bridge.

Reinforced and repaired and painted bridge at Headson's landing.

Repaired Hiawatha street highway bridge.

Repaired walls at Catherine street bridge, near Flagg's storage warehouse, near Geddes street bridge, at Manlius Center bridge, and from machine shop to Warren street bridge.

Laid up docking at Greenpoint bridge.

Repaired roadway of Brewerton bridge.

Reinforced iron work and repaired Orville feeder bridge.

Repaired Camillus feeder bridge.

Repaired break in roadway over pit of Bascue bridge at North Salina street.

Repaired floor of highway bridge north of Lock No. 23.

Cleaning stone from mitre sill of Lock No. 23.

Repaired house for use of lock operators at Lock No. 23.

Made repairs at Lock No. 24, Baldwinsville.

Installed new valve hoists at Lock No. 24.

Repaired water pipes at Syracuse terminal.

Repaired and painted electric cranes and derrick at Syracuse terminal.

Built storeroom at terminal warehouse.

Stopped leaks in Orville and Fayetteville adqeducts.

Repaired leak in Canaseraga culvert.

Repaired and painted house and barn at Jamesville reservoir.

Made and installed new balance beam at Lock No. 1, old Oswego canal.

Installed two new gates at Lock No. 3, old Oswego canal.

Repaired Locks Nos. 47 and 48, old Erie canal, and Locks Nos. 1 and 2, old Oswego canal.

Section 7, Erie Canal

Installed machinery at Lock No. 25 to control water at dam.

Made bearings for gates at Lock No. 25.

Repaired cottage at Lock No. 25 for use of lock forces.

Repaired gates of Owasco dam at Auburn.

Laid up fallen wall and repointed wall at Owasco outlet, Auburn.

Removal of Bridges

The following bridges on this section over the abandoned canal were removed, culverts for drainage purposes constructed, and fills made for crossings at grade: Main street bridge at Memphis, Main street bridge at Jordan, Brutus street bridge at Weedsport, Canal street bridge at Port Byron and bridge at Peru.

Oswego Canal

A lighting system was installed on Minetto bridge.

Built house for gauge which was installed at Lock No. 6, Minetto.

Built overhead bridges for cable at locks at Fulton and Minetto.

Painted Fulton terminal warehouse.

Repaired head-gates of hydraulic canal at Oswego.

Made repairs to horseshoe dam at Oswego.

Repaired head-gates at Lock No. 8, Oswego.

Moved three head-gates from High Dam, Oswego, to Lock No. 7, Oswego.

Put in sheet piling and made fill in berme bank at culvert near Brazee Milling plant, Oswego canal.

Built oil house at Three River Point for buoy light tenders.

Excavating rock and dirt at millrace, Baldwinsville, preparatory to installing steel head-gates.

Financial tables showing the expenditures on this division for the fiscal year ending June 30, 1920, are appended hereto.

P. J. CAWLEY,

Assistant Superintendent.

DETAILED STATEMENT of Expenditures on the Middle Division of the Canals, by P. J. Cavley, Assistant Superintendent of Public Works, under Chapter 177, Laws of 1919, from July 1, 1919 to June 30, 1920

ITEMS	Middle division	EMT CANAL				Oswego canal	Cayuga and Seneca canal	Black River canal	Totals
		Section 5	Section 6	Section 7					
General supervision.....	\$14,470 00	\$1,312 09	\$5,102 92	\$645 80	.....	\$257 40	\$319 50	\$116 80	\$14,470 00
General field and shop force.....	25,311 91	1,980 00	1,140 00	240 00	.....	.....	.....	720 00	33,066 42
Reservoir division.....	8,490 12	9,437 66	3,681 47	1,919 25	.....	872 37	1,490 83	.....	4,980 00
Boat crews division.....	2,553 75	3,220 10	1,492 55	98 00	.....	64 30	155 60	98 10	25,831 70
Miscellaneous.....	3,539 50	8,157 64	5,197 43	3,429 90	.....	1,096 88	6,866 33	12,067 25	7,652 40
Additional clerk hire and temporary service.....	52 18	.....	.....	.....	.....	.....	.....	.....	40,344 43
Barge canal lock force winning prize lock competition.....	.....	.....	.....	.....	.....	.....	.....	.....	52 18
Maintenance and operation:	.....	.....	.....	.....	.....	.....	.....	.....	169 00
Fuel, light, power and water.....	1,982 62	655 97	325 28	381 65	.....	981 97	1,293 54	85 00	5,406 30
Advertising.....	.....	102 50	120 72	51 73	.....	105 10	73 50	113 25	5,566 79
Equipment, supplies and material.....	35,493 32	4,573 09	6,312 24	2,039 34	.....	1,967 30	2,523 79	6,063 34	58,962 42
Travelling expense.....	8,716 66	5,643 74	192 75	239 09	.....	305 89	271 95	330 33	10,600 41
Communication.....	2,179 09	793 80	282 60	157 28	.....	731 29	340 98	257 70	4,692 14
Rent.....	.....	.....	.....	96 00	.....	240 00	45 00	.....	4,381 00
General plant service:	.....	.....	.....	.....	.....	.....	.....	.....	12 00
Premium on official bonds.....	295 23	.....	.....	.....	.....	.....	.....	12 00	295 23
Installing aids to navigation.....	129 30	.....	.....	.....	.....	.....	.....	.....	129 30
Insurance on department plant.....	.....	.....	.....	.....	.....	.....	.....	.....	5 00
Department notaries.....	33,368 68	23,433 13	7,283 25	3,587 41	.....	1,817 02	4,364 48	13,207 99	86,081 96
Repairs, Part III.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Construction of cottages for housing of lock forces at locks in isolated places.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
For the construction of stores and lock houses.....	.....	4,580 99	.....	.....	.....	.....	.....	.....	4,580 99
For the purchase or construction of small motor boats.....	.....	814 56	1,198 07	47 25	.....	.....	.....	.....	2,059 88
For the purchase of electrical pump at new type locks.....	.....	.....	400 00	.....	.....	111 27	466 40	.....	977 67
Removal of bridges over abandoned canal.....	.....	245 00	.....	.....	.....	.....	.....	.....	678 61
For purchase or construction of channel lights.....	1,147 00	.....	.....	13,474 44	.....	.....	.....	.....	13,719 44
Totals.....	\$87,329 36	\$59,845 27	\$32,598 68	\$27,085 74	.....	\$8,550 29	\$18,360 90	\$33,061 76	\$316,832 00

DETAILED STATEMENT OF Expenditures on the Middle Division of the Canals, by P. J. Cawley, Assistant Superintendent of Public Works, under Special Appropriations, from July 1, 1919 to June 30, 1920

ITEMS	Middle division	Erie Canal			Oswego canal	Cayuga and Seneca canal	Black River canal	Totals
		Section 5	Section 6	Section 7				
Redredging in Barge canal channel (chapter 147, Laws of 1908).....	13,668 57	.....	.....	.....	.....	.....	13,668 57
Providing towing facilities (chapter 264, Laws of 1919).....	572 70	.....	.....	.....	.....	572 70
	\$13,668 57	\$572 70	.....	.....	.....	.....	\$14,241 27

ANNUAL REPORT, showing the different items of expenditure and the cost of each, July 1, 1919, to June 30, 1920, inclusive, on Section 5, Erie Canal, in charge of Albert Geiersbach, Superintendent of Repairs; also a statement of Important Repair and Improvement Work completed during the year 1919.

Items	Total Expenditures
Lock tending	\$32,357 93
Repairs to farm bridges.....	1,497 60
Repairs to weighlock.....	355 55
Watching canal	4,660 00
Feeder tending	455 00
Gate tender	400 00
Buoy light tender.....	770 00
Superintendent of repairs.....	1,782 00
Disbursing clerk	1,200 00
Janitress	100 00
Watchman, shop	600 00
Lowering Rome guard gates.....	17 00
Repairing tumble gates at Rome west junction lock	35 00
Removing engines from boats	31 60
Taking down cranes at Utica and Rome	65 00
Placing boats in warehouse	42 00
Repairing taintor gates	104 65
Repairs to waste weir No. 1.....	61 50
Repairs to doors, Utica warehouse	62 24
Total.....	<u><u>\$44,597 07</u></u>

REPAIRS AND IMPROVEMENTS

The floors and rails were repaired on the following bridges: Turner street, Gilbert street, Broad street, Second street, First street, John street, Genesee street, Hotel street, Seneca street, Washington street, Whitesboro street, Schuyler street, New York Mills, Westmoreland street, Bradley road, River street, George street, Jay street, Happy Valley, Higginsville, State road, Sholhammer, Lenox Basin.

Made repairs to taintor gates, Oriskany aqueduct, and Waste Weir No. 1.

Removed temporary dams.

Cleaned out Nail creek culvert.

ALBERT GEIERSBACH,
Superintendent.

ANNUAL REPORT, showing the different items of expenditure and the cost of each, July 1, 1919, to June 30, 1920, both inclusive, on section 6, Erie Canal, in charge of Walter H. Scammell, Superintendent of Repairs, also a statement of Important Repair and Improvement Work completed during the year 1920.

Items	Total Expenditures
Lock tending, Barge canal (exclusive of oil)	\$13,946 76
Lock tending, Erie and Oswego canals	5,942 23
Lock gates, repairs	17 00
Bridge repairs (farm, road and tow path)	492 75
Buoy light tenders, Barge canal	4,667 45
Bank watch, level watch and feeder tenders	3,647 60
Superintendent of repairs	1,782 00
Disbursing clerk	1,050 00
Repair and inspection of bridges (during closed season)	365 00
Mowing weeds along Oswego canal	89 50
Carpenter work at terminal (Barge canal)	270 00
Cleaning and repairing locks, Oswego canal	116 00
Cleaning State ditch at Manlius Center	18 00
Cleaning Bear Trap brook	9 00
Repairing leak at Lock No. 2	9 00
Repairing Orville feeder	9 00
Repairing bank, Oswego	4 50
Repairs to paddles at Chittenango aqueduct	5 50
Closing locks	9 00
Total	<hr/> \$32,449 54 <hr/> <hr/>

REPAIRS AND IMPROVEMENTS

During the season new floors were placed on the following bridges: Manlius Center, Orville, James street, Warren street, Peterbury street; Canastota, Farm bridge; Canastota, Shellhammer Bridge; Canastota, Park street, Park street, side cut, Willow street.

Bloody Brook culvert and Bear Trap brook were cleaned of mud and refuse by the State scow. The Lock house at Lock No. 3 was repaired.

Canaseraga culvert was cleaned and the break repaired.

All paddles on the section aqueducts were dusted and repaired.

The Liverpool level was mowed and brush was cut at Mud Lock and Cold Springs.

Several repairs were made to the Syracuse bridges and side walks and minor repairs to locks on the Oswego and Erie canals.

WALTER H. SCAMMELL,
Superintendent.

ANNUAL REPORT, showing the different items of expenditures and the cost of each, July 1, 1919, to June 30, 1920, both inclusive, on Section No. 7, Erie Canal, in charge of Daniel Farrell, Superintendent of Repairs.

Items	Total Expenditures
Lock No. 25	\$1,562 49
Lock operators	3,900 00
Lock helpers	1,815 96
Tending buoy lights	3,608 72
Feeder tending	120 00
Carpenter	700 50
Superintendent of canal repairs	1,782 00
Disbursing clerk	1,200 00
Total	<hr/> \$14,689 67 <hr/>

DANIEL FARRELL,
Supt. of Canal Repairs.

ANNUAL REPORT, showing the different items of expenditure and the cost of each, July 1, 1919, to June 30, 1920, both inclusive, on the Oswego Canal, in charge of P. J. O'Brien, Superintendent of Repairs, also a statement of Important Repair and Improvement work completed during the year 1919.

Items	Total Expenditures
Superintendent of repairs	\$1,782 00
Disbursing clerk	190 00
Gate tenders	1,560 00
Light tenders	2,338 42
Bridge tenders	1,637 16
Bridge watchman	310 00
Lock tending	46,352 57
Total	<hr/> \$54,170 15 <hr/> <hr/>

REPAIRS AND IMPROVEMENTS

Rewiring Lock No. 2, Fulton, was begun and progressed as far as possible until the steel cross-over is erected.

The headgates at Fulton, west side, opposite Lock No. 2, were repaired.

Lock No. 7, Oswego, rewired with exception of lights.

Lock No. 8, Oswego, was partly rewired.

Repairs were made to break in vacuum line at Lock No. 8, Oswego.

Bridge at Lock No. 7, Oswego, was replanked.

Bascule bridge at Phoenix was repaired.

The State ditch and Brandy Brook flats at Phoenix were cleaned.

The road over the old canal at Hinmanville was filled in and repaired.

The fence along the old canal at Fulton was repaired.

The State ditch south of Fulton was cleaned out.

The Shaw Street bridge, Fulton, was removed, the old canal filled in and a roadway made across.

Weeds and brush were cut down and State land cleared at Three Rivers.

Cut and cleared away the brush and weeds along the canal bank north of Fulton as far as Pathfinder Island.

Replanked gates at Lock No. 3, Fulton and Lock No. 5, Minetto.

During the winter all buoys were scraped and painted.

P. J. O'BRIEN,
Supt. of Repairs, Oswego Canal.

ANNUAL REPORT, showing the name and number of structures or works, the different heads of expenditures and the cost of each on the Cayuga and Seneca Canal under the charge of Clifford L. Beare, Superintendent of Repairs, during the 366 days from July 1, 1919 to June 30, 1920.

STRUCTURE OR WORKS, ETC.	Whole Number on Section	Total Expenditures
Superintendent of repairs	1	\$1,782 00
Disbursing clerk	1	1,200 00
Locktending	4	26,630 93
Buoy light tender	2	1,390 97
Bridge watch	2	450 00
Carpenter work	1	643 50
		<hr/> \$32,097 40
Repair force, general work on section		<hr/> \$4,874 08
Total		<hr/> \$36,971 48

CLIFFORD L. BEARE,
Supt. of Repairs.

ANNUAL REPORT, showing the different items of expenditure and the cost of each, July 1, 1919, to June 30, 1920, inclusive, on the Black River Canal, in charge of J. H. Carroll, Superintendent of Repairs; also a Statement of Important Repair and Improvement work completed during the year 1919.

Locks and lock tending	\$13,802 57
Lock gates	165 00
Farm bridges, wood	375 50
Road bridges, wood	40 00
Cleaning out canal during spring	110 50
Watching canal	1,140 00
Unloading, sorting and piling lumber.....	26 00
Bracing locks for winter.....	40 00
Miscellaneous work by carpenter	26 50
Bridge tending	600 00
Bank watching	1,182 83
Watchman, State shop	450 00
Reservoir tender, Delta dam	840 00
Reservoir tender, Alder creek	360 00
Dishursing clerk	1,109 68
Janitor	50 00
Superintendent of repairs	1,782 00
<hr/>	
Total	\$22,100 58
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The following new bridges were framed and installed:

Carpenter, farm bridge, No. 43, wood.

Hart, farm bridge, No. 33, wood.

Yerden, farm bridge, No. 34, wood.

Warrens, farm bridge, wood.

Lower combines, road bridge, No. 32, wood.

Repairs were made to the following old bridges:

Post, farm bridge, No. 54, wood.

Baker, State road bridge, No. 36, wood.

Glenfield, State road bridge, Iron.

Castorland, State road bridge, Iron.

Buck Hill, State road bridge, No. 28, Iron.

Ridge Road, State road bridge No. 8, Iron.
Hulbert, State road bridge, No. 13, iron whipple arch.
Thomas Street, Rome road bridge, No. 4, iron.
Beeches, farm bridge, wood.
Nugent, farm bridge, No. 3, wood; new abutment.
Stephans, farm bridge, No. 10, wood.
Crowell, farm bridge, No. 9, wood.
Parmalee, farm bridge, No. 18, wood.
Waldo, farm bridge, No. 22, wood.
Adams, farm bridge, No. 11 wood.
Belius farm bridge, No. 24, wood.

Some new docking was made and other docking repaired. Considerable re-grading and graveling was done on tow paths and minor repairs made along same over the entire line. The appearance along the canal between Rome and Boonville was greatly improved around locks and lock houses, and especially in the city of Rome on berme banks by cutting and burning the brush and weeds. Minor repairs were also made to all structures where needed, on the whole line of canal, and the canal was regularly patrolled and inspected. No serious breeches occurred and navigation was uninterrupted during the open season.

J. H. CARROLL,
Superintendent.

WESTERN DIVISION

REPORT OF THE ASSISTANT SUPERINTENDENT OF PUBLIC WORKS

OFFICE OF THE

ASSISTANT SUPERINTENDENT OF PUBLIC WORKS

ROCHESTER, N. Y., *December 31, 1920.*

HON. E. S. WALSH, *Superintendent of Public Works, Albany,
N. Y.:*

DEAR SIR.— I have the honor to submit herewith the annual report of the western division, New York State canals for the year ending December 31, 1920.

Complying with your instructions the canal was opened for business May 15th, the first boat locking east through Lockport locks at 11:45 A. M. Although November 27th was the date set for the official closing of the canal, it was December 24th before the last fleet reached Buffalo.

High water in the Genesee river necessitated using the Guard Locks during July 25, 26 and 27. However no boats were delayed as they were locked through on arrival. Throughout the season the statutory boating depth was maintained throughout the division and there was an almost total absence of complaints.

With the derrick boat operating all season, and hydraulic dredge in use for a period of three months in the latter part of the season, a great amount of material was excavated from the canal on section No. 8, the same having been washed in from tributary creeks. The presence of this material in the channel had been the cause of complaint heretofore.

The floating equipment on section No. 11 has been busy almost steadily dredging out slides on Tonawanda creek. To secure the benefit of this work, I respectfully recommend that early next Spring the banks of the creek be loaded with heavy stones to pre-

vent slides; otherwise great expense will be incurred in keeping the channel open. A beginning in the bank protection work was made during the past season.

Since the Barge canal improvement was finished, practically no repairs have been made to the wash wall. As a result the banks for considerable lengths are in bad condition. While no serious delays to navigation have as yet occurred from slides, the danger is imminent. The replacing of a large amount of wash wall is recommended.

The north bank of the canal from Freer's bridge west to the west line of Wayne county is in a very weakened condition through erosion, and it will be necessary to repair and strengthen it by filling out with earth and protecting the same with rip rap.

Another bank which needs repairs badly is Ganargua creek from the old Palmyra aqueduct to its entrance into the Barge canal below Lock No. 29.

The condition of the banks, along the level from Lockport to Rochester, requires attention, and a systematic plan should be worked out and sufficient moneys appropriated for the performance of necessary bank protection work.

Looking into the future to the extent of the next season of navigation, I wish to call your attention to the necessity of extensive repairs to the Division floating equipment, and the putting into commission of the new tug and derrick boat by equipping both with the necessary machinery, also, the building of three new flat scows of proper size. Enough work is in prospect to keep this plant in constant operation for a long time if the Canal is to be maintained at 100 per cent. efficiency.

On account of the abandonment of the Canal through the city of Rochester, the overhead stairs and counterweights that were a menace to the public safety were removed at several of the bridges, viz: Exchange St. Bridge No. 72, Caledonia Ave. Bridge No. 76, West Ave. Bridge No. 77 and Lexington Ave. Bridge No. 86, all in Rochester.

A new driving shaft was necessary at Adams Basin Lift Bridge and was installed.

Warning signs are being placed on all bridges, giving the maximum load allowed. In this connection I wish to call atten-

tion to the condition of the bridges over the old Canal in the city of Buffalo, particularly at Erie street, Genesee street and Hudson street. These structures were built many years ago and before the coming of the automobile truck, and are not strong enough for present day traffic.

The following is a detailed summary of the repairs made:

GENERAL IMPROVEMENTS ON THE WESTERN DIVISION, NEW YORK STATE CANALS, FROM JANUARY 1, 1920 to DECEMBER 31, 1920.

WESTERN DIVISION.

The Western Division shop force performed the following work:

Repaired and overhauled launch for use on Section No. 8.

Repaired derrick boat No. 1.

Constructed ladders for East and West Guard Locks.

Made switch boards for Barge Canal Locks.

Repaired broken water main in State Yard.

Made and installed flash boards on spillway at Junction Lock.

Made poles, anchors, etc., for buoys in Rochester harbor.

Repaired slides at Lexington Ave. spillway.

Moved Byer's crane from Barge Canal Lock No. 32 to Rochester Terminal.

Built platform at Rochester Terminal warehouse.

In addition to specific work listed above, the Western Division shop force was employed preparing lumber, etc., for general repairs to bridges and other structures, making and repairing tools, and other general repair work.

The bridge repairmen were employed overhauling machinery on lift bridges preparatory to opening of navigation season, maintaining same in operation during season, and closing down bridges for the winter at termination of season.

Constructed at Buffalo State Yard hull 28 feet by 90 feet, 6 feet sides, to be used for derrick boat.

Overhauled and repaired hull of tug "Flower City."

Made repairs to lighter scow No. 2.

Tug "Flower City" was employed during the season, delivering materials and towing boats on the division.

Weeds and brush were cut where necessary on Sections Nos. 8, 9, 10 and 11, during the season of navigation.

Section No. 8

Built culvert and made earth fill to take place of Bridge No. 40 over old Canal, at Macedon.

Removed logs and stumps from prism of canal between Barge Canal Lock No. 27 and east County line; and between Barge Canal Lock No. 30 and Monroe County line; also cleaned out Lock No. 30.

Removed dirt caused by slide near new bridge at Clyde.

Transferred Hydraulic Dredge from Middle Division in August, 1920 and set same up at Wayneport.

Derrick Boat No. 1 and Hydraulic Dredge were employed dredging out bars where necessary on Section.

Digging ditch through towpath of old Canal to drain Port Gibson Basin.

Repaired leak at Harrison's spillway.

Built new storehouse at Barge Canal Lock No. 28-B.

Repaired driveways of Barge Canal Bridges as follows; east of Macedon, Yellow Mills, Maple Avenue, Palmyra, Division St., Palmyra, Railroad Ave., Palmyra, Port Gibson, Lyons, and Peek's Bridges.

Repaired driveway, railings and approaches to Barge Canal Bridges at Wayneport, Freer's and Macedon.

Resurfaced fill and repaired railings on sites of old bridges Nos. 9, 10 and 21.

The following Barge Canal bridges and guard rails were painted: Geneva St., Lyons; Fordham St., Lyons; Poor House bridge; bridge at Barge Canal Lock 28-B; East Ave., Main St., and Edgett St. bridges, Newark; Peek's Bridge; Port Gibson; Galloway's; Railroad Ave., Division St., and Maple Ave. bridges, Palmyra; Yellow Mills, bridge east of Macedon, bridge at Barge Canal Lock No. 30, Freer's bridge, and Wayneport bridge.

Section No. 9

Repaired planking and joists of bridges Nos. 46, 54, 57, 58, 61, 62, 64, 66, 67, 68, 69, 72, 73, 74, 75, 76, 77, 78, 81, 82, 84,

85, 86, 90, 103, 108 and East Henrietta Road, Scottsville Road and Brooks Ave. Barge Canal bridges.

Replanked bridge No. 61, bridge No. 108 at Main St., Brockport, and Brooks Ave. Barge Canal bridge.

Gravelled approaches to bridges Nos. 44, 47, 94, 95, 104 and Riley's bridge.

Caulked seams in flume at Bushnell's Basin.

Set snubbing posts at Rochester Terminal; set buoys and stakes in Rochester harbor.

Cleaned out canal prism from head of Dry Dock to Lock No. 66, and for distance of 100 feet at Salt Dock.

Removed rubbish, logs, etc., from canal prism between Bridge No. 104 and west County line; between Bridge No. 47 and east County line; between Salt Dock and Junction Lock; and between Bridge No. 86 and Lock No. 65.

Removed tree trunks from sector gates Rochester Dam.

Removed old boats from canal prism at following locations: Cartersville; one-half mile east of Spencerport; and one-quarter mile west of Spencerport.

Repaired bank one mile east of Brockport.

Removed bar from canal at Community ditch east of Lyell Road bridge.

Repaired gates at Lock No. 65.

Laid up 200 feet of wash wall in vicinity of Bridge No. 59.

Cut off leak in cellar of Mr. Levinson, at corner of Harvard and Homer streets, Rochester.

Excavated from prism of canal at West Guard Lock.

The following Barge Canal bridges and guard rails were painted: Knapp's, Cobb's, Parker St., Fairport, lift bridge No. 46, Fairport, and Fullamtown.

Ditching was performed on Fagan property near Brockport guard gate, and on Minor property near west County line; also on lands of J. B. McCabe and T. J. Tierney, Spencerport, to care for seepage from canal.

Cleaned out ditch at Baird Farm, west of Spencerport, and on Vick Farm, at South Greece.

Section No. 10

Repaired work shop at State Yard.

Cleaned and painted needle beams and lock gates at Barge Canal Locks Nos. 34 and 35.

Painted lock house, storehouse and houses over tunnel gates at Lockport.

Cleaned out and repaired Culvert No. 109.

Made general repairs to scows "Lockport" and "Albion."

Repaired driveways, etc. at following bridges: Nos. 113, 114, 115, 116, 117, 118, 119, 121, 127, 128, 129, 131, 135, 140, 140½, 145, 151, 152, 153, 156, 157, 159 and 163.

Repaired bridges over Oak Orchard Creek feeder in town of Alabama and bridges over State ditch, in town of Pendleton.

Repaired railings and replanked Bridge No. 156.

Replanked Bridge No. 152.

Replanked driveway and sidewalks of Bridge No. 145, at Middleport.

Repaired approaches to Bridges Nos. 126, 131 and 140½.

Repaired plank walk over feeder, in village of Medina.

Cleaned out ditch between Bridges Nos. 164½ and 165.

Cleaned out towpatch ditch and repaired towpath between Lockport Dry Dock and Combined Locks.

Performed 1800 feet of ditching on Dye Cold Storage farm, one mile west of Medina.

Cleaned out ditch east of Bridge No. 145.

Built new storehouse at Barge Canal Lock No. 34.

Repaired leaks east of Bridge No. 119; east of Waste Weir No. 18: at Chadwick's Quarry, Corona Quarry and Gaines Basin.

Removed slide from canal prism at Ryan's Dock.

Excavated to stop leak into Vincent and other quarries.

Removed slide from canal east of Culvert No. 96.

Cleaned out prism of canal between Bridge No. 164 and Pendleton guard gate.

Riprapped bank of basin at foot of Barge Canal Lock No. 34, and excavated 325 cubic yards of material from canal prism at foot of lock.

Removed sheet piling from under Holley bridge.

Removed old concrete from broken sections of breast wall at Barge Canal Lock No. 35, and replaced with new.

Section No. 11

Repaired running boards at Lock No. 72.

Repaired fence at State Yard, Tonawanda.

Repaired doors at Genesee Street Terminal, Buffalo.

Built new truck for Dry Dock.

Installed snubbing posts at Tonawanda Terminal.

Repaired dry dock at State Yard.

Placed riprap on north bank of canal near New Home bridge for bank protection.

Cleaned out State ditch at Tonawanda.

Wrecked abandoned canal boat and removed same from canal one mile east of new International Railroad bridge.

Constructed retaining wall near Seymour street, Tonawanda.

Removed old tow path bridge over Tonawanda Creek at Pendleton.

Built timber retaining wall at Main street bridge, Tonawanda, to take the place of old wall which slid into canal, filled in back of same, and riprapped bank to protect same from washing.

Caulked and repaired Derrick Dredge No. 2, Steamer "State of New York" and flat scow; repaired dump scows, and hull of tug "Queen City."

Repaired planking of bridges as follows: Commercial street, Cherry street, Genesee street, Hudson street, Lloyd street, and Lake street, Buffalo; and Delaware street, and Lock Slip bridges, Tonawanda.

Repaired Main street bridge, Tonawanda, Bouck street bridge, Tonawanda, Bridge No. 182, Pickard's bridge, and bridges over Ellicott Creek.

Replanked Pendleton bridge, River Lock bridge, Pickard's bridge, and Commercial street and Lake street bridges, Buffalo.

Repaired approaches to Ohio street, bridge, Buffalo.

Repaired and strengthened Grand Island Ferry Bridge No. 182.

Piles were driven for channel lights in Tonawanda Creek and lamp cages installed on each pile.

Steamer "State of New York" was employed during season transporting materials over section where necessary, and moving boats and waiting on Derrick Dredge No. 2, during the dredging operations of the latter.

Chapter 147, Laws of 1903

Placed riprap protection to bank on Canandaigua Creek outlet at Lyons, on site of Barge Canal Contract No. 148.

Financial tables showing in detail expenditures on the Western Division for the fiscal year ending June 30, 1920, are appended hereto.

In concluding this report I desire to express my appreciation of the hearty co-operation of all the employees on this division.

CHAS. McDONOUGH,
Assistant Superintendent.

DETAILED STATEMENT OF Expenditures on the Western Division of the New York State canals, by Chas. McDonough,
Assistant Superintendent of Public Works, in accordance with Chapter 177, Laws of 1919 et al., for the fiscal year
extending from July 1, 1919 to June 30, 1920, inclusive

ITEMS	Western division Erie	Section No. 8	Section No. 9	Section No. 10	Section No. 11	Total
<i>Part I: Personal Service</i>						
General supervision.....	\$11,177 42	.....	\$1,819 13	.....	\$1,389 00	\$11,177 42
General field and shop force.....	24,848 32	.....	282 76	.....	8,466 68	28,692 30
Boat crews division.....	1,964 70	\$1,253 65	.....	.....	.....	11,967 79
Miscellaneous patrolmen.....	1,274 84	.....	.....	.....	.....	1,274 84
Section maintenance forces.....	.....	4,181 42	13,888 51	21,749 32	13,282 63	53,101 88
<i>Part II: Maintenance and Operation</i>						
Fuel, light, power and water.....	997 33	5,114 23	1,413 70	1,401 08	2,150 56	11,076 90
Advertising: Publishing abstracts of expenditures of section superintendents.....	.....	74 97	152 72	118 47	62 00	408 16
Equipment, supplies and materials.....	10,561 21	4,514 77	23,575 62	11,541 03	21,112 97	71,305 60
Traveling expenses: For other officials and employees.....	4,805 37	1,018 46	532 28	525 69	254 90	7,136 70
Communication.....	1,315 19	623 81	476 37	534 64	241 34	3,191 35
Fixed charges and contributions: Payment of small claims.....	89 63	.....	.....	.....	.....	89 63
<i>Part III:</i>						
Repairs.....	8,235 15	15,518 15	9,600 87	12,906 48	16,219 94	62,480 59
Construction or permanent betterments: For the purchase or construction of channel lights.....	.....	95 38	31 50	.....	51 71	178 59
For the purchase of electrical pumps at new type locks.....	.....	217 50	.....	.....	.....	217 50
Removal of bridges over abandoned canal and construction of crossings, etc.....	.....	6,003 80	509 60	.....	.....	6,003 80
For the construction or cleaning out of drainage ditches.....	182 00	.....	.....	1,585 00	.....	2,277 60
For the construction of store and lockhouses.....	.....	1,036 61	234 35	3,460 52	.....	4,731 48
Total ordinary expenditures under chapter 177, Laws of 1919, et. al.....	\$65,269 16	\$39,534 75	\$52,517 41	\$54,459 08	\$63,231 73	\$275,312 13
Chapter 284, Laws of 1919 and Chapter 370, Laws of 1920 Providing towing facilities.....	.....	\$255 90	.....	.....	\$33 28	\$288 88

<i>Chapter 746, Laws of 1911</i>									
Construction of terminals.....	400 00	.....	.....	.....	.....	.....	553 14	953 14	
<i>Chapter 147, Laws of 1903</i>									
Taking down old Sodus street bridge over Barge canal at Clyde.	.....	.....	.....	.....	.....	.....	.....	2,518 88	
Cleaning out ditch at foot of bank between south Greece and	.....	2,518 88	.....	.....	.....	.....	.....	285 50	
Cronwell's bridge on Vick farm.....	.....	.....	285 50	.....	.....	.....	.....	10,611 78	
Riprap protection to bank, Canandaigua creek outlet at Lyons,	.....	10,611 78	.....	.....	.....	.....	.....	.....
site of Barge canal contract No. 148.....	.....	.....	.....	.....	.....	.....	.....	.....
Total expenditures, special appropriations.....	\$400 00	\$13,386 26	\$285 50	.....	.....	.....	\$586 42	\$14,658 18	
Total expenditures for ordinary maintenance and repairs, de-	65,269 16	39,824 75	52,517 41	54,459 08	.....	.....	63,231 73	275,312 13	
tails on preceding page.....	.....	.....	.....	.....	.....	.....	.....	.....
Total expenditures on Western Division for fiscal year, ending	\$45,669 16	\$53,221 01	\$52,802 91	\$54,459 08	.....	.....	\$63,818 15	\$289,970 31	
June 30, 1920.....	.....	.....	.....	.....	.....	.....	.....	.....

ANNUAL REPORT, showing the different items of expenditure and the cost of each, July 1, 1919, to June 30, 1920, both inclusive, on Section 8, Erie Canal, in charge of H. M. Littel, Superintendent of Repairs; also a statement of the Important Repair and Improvement Work completed during the year 1920.

Superintendent of repairs.....	\$1,782 00
Disbursing clerk	1,200 00
Lock master	1,900 00
Assistant lock master.....	9,584 90
Lock operators	15,599 95
Lock helpers	10,835 95
Patrolmen.	2,002 90
Buoy light tenders	1,394 15
Guard gate light tender.....	166 91
Watchman. (Shop and yard).....	720 00
Carpenter. (Supervising forces)	1,252 00
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Total	\$46,438 76

REPAIRS AND IMPROVEMENTS

Buoy Lamps

Many of the buoy lamp posts were torn from their settings by high water and heavy ice, making it necessary to go over the entire distance from Lyons to eastern end of section and reset posts that could be found and replace with new ones those that had been carried away by the water. Also, heavy brush that had grown up about the posts was cleared away for some distance, that the lights at night might be more clearly distinguished.

Bridges and Railings

All the planked bridges on the section have been given close attention, and a large amount of work has been required in removing broken plank and replacing with new, caused by heavy loading auto trucks passing over them. Approaches have been looked after and graveled where needed. All broken or missing guard-rails have been rebuilt and painted and such other work done as required in the maintenance of bridges and their approaches.

Concrete Work

Concrete culvert was built at Bridge No. 40 with opening seven feet by ten feet, length seventy feet, for by-pass to Lock No. 30. Also, concrete foundation for the building at Lock No. 30, used by the soldiers for a barracks, and now made use of at Lock No. 30 for storehouse and workshop. In the village of Clyde a four-foot concrete walk was laid from Columbia street across the abandoned Erie canal to the Farmers' Exchange building.

Grading

All that part of the abandoned Erie canal between Leach street and Lock No. 55 in the village of Lyons has been filled in and graded with earth from the towpath, which has added to the good appearance and convenience about Barge Lock No. 27. Also, grading south of Lock No. 28-B was done for the construction of a machine shop for work in connection with barge locks on Section No. 8.

Navigation has been maintained without interruption during this period.

H. M. LITTEL,
Superintendent.

ANNUAL REPORT, *showing the different items of expenditure and the cost of each, July 1, 1919, to June 30, 1920, both inclusive, on Section 9, Erie Canal, in charge of Bernard J. Hogan, Superintendent of Repairs.*

Superintendent of repairs.....	\$1,782 00
Disbursing clerk	1,200 00
Lockmaster.	1,900 00
Assistant lockmaster	6,400 00
Lock operators	9,806 28
Lock helpers	7,046 52
Buoy light tender.....	163 22
Patrolmen	4,549 52
Bridge tenders	14,850 00
Guard-gate tenders	4,712 90
Lock tenders	10,762 90
Carpenter.	1,407 95
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Total.....	\$64,581 29
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BERNARD J. HOGAN,
Superintendent.

ANNUAL REPORT, showing the different items of expenditure and the cost of each, July 1, 1919, to June 30, 1920, both inclusive, on Section No. 10, Erie Canal, in charge of D. Gurney Spalding, Superintendent of Repairs; also a statement of the Important Repair and Improvement Work completed during the year 1920.

Superintendent of repairs.....	\$1,782 00
Disbursing clerk	1,200 00
Barge canal locks:	
Lockmaster	1,900 00
Assistant lockmaster	1,600 00
Lock operators.	7,800 00
Lock helpers	5,417 41
Patrolmen (8)	4,178 22
Guard-gate tenders	5,893 55
Guard-gate tender	175 00
Lift-bridge tenders	19,496 25
Patrolmen (2)	1,330 00
Carpenter, supervising forces.....	1,330 25
Watchmen, shop	2,130 00
Watchman, Oak Orchard Creek feeder.....	300 00
Total.....	<hr/> \$54,532 68 <hr/> <hr/>

REPAIRS AND IMPROVEMENTS

The bridges have been inspected from time to time and kept in good repair.

Locks were repaired as needs required.

Waste-weirs and guard gates have been cleaned and repaired.

Culverts have been cleaned out where found necessary.

The water supply has been fair and the levels have been kept up to normal height.

Loose stone, etc., was removed from prism of canal between Bridge No. 157 and Sulphur Spring guard-gate before the opening of navigation.

Slope and vertical walls were repaired and relaid where needed during the spring repairs.

State boats have been repaired and painted, two coats each.

State shops, etc., have been repaired.

State fences and railings have been kept in good condition.

Weeds and brush were cut the entire length of the section.

Navigation has not been obstructed for any length of time on this section.

D. GURNEY SPALDING,
Superintendent.

ANNUAL REPORT, *showing the different items of expenditure and the cost of each, July 1, 1919, to June 30, 1920, both inclusive, on Section No. 11, Erie Canal, in charge of George Klein, Superintendent of Repairs.*

Superintendent of repairs.....	\$2,282 00
Disbursing clerk	1,200 00
Sanitary watchman	900 00
Watchman, State yard.....	1,095 00
Patrolman	665 00
Carpenter force, making general repairs to bridges and boats	8,771 00
Lock tender	3,704 80
Buoy light tender.....	1,295 14
Traffic regulators on Genesee and Hudson street bridges.	1,252 00
<hr/>	
Total.....	\$21,164 94
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REPORT
OF THE
SUPERINTENDENT OF PUBLIC WORKS
UPON THE
TRADE AND TONNAGE OF THE CANALS FOR THE
YEAR 1920

[211]

ANNUAL ACCOUNT OF PROPERTY (in tons of 2,000 lbs.) shipped on the canals each week during the season of 1920

MANUFACTURED PRODUCTS							
	Iron, pig and bloom	Iron or steel articles	Other metals	Petroleum and other oil	Cement and lime	Brick	Salt
First week of May	.....	.....	314	1,314	400	.....	.....
Second week of May	.....	.....	.....	2,055	917	.....	.....
Third week of May	.....	.....	260	1,883	100	474	520
Fourth week of May	.....	.....	314	2,369	1,191	195	955
Total of May	.....	.....	888	7,621	2,608	669	1,475
First week of June	280	.....	248	2,066	2,349	.....	.....
Second week of June	.....	.....	160	4,235	306	.....	.....
Third week of June	.....	.....	294	3,693	100	15	3,351
Fourth week of June	311	3	.....	3,115	912	.....	.....
Total of June	591	3	702	13,109	3,667	15	3,351
First week of July	2,346	.....	80	1,775	2,224	.....	482
Second week of July	3,326	12	220	2,415	1,516	.....	3,505
Third week of July	5,627	560	835	4,878	2,136	.....	1,278
Fourth week of July	3,592	.....	57	2,045	1,830	.....	1,980
Fifth week of July	4,412	.....	140	4,883	1,731	.....	.....
Total of July	19,303	572	1,332	15,996	9,437	.....	7,245

First week of August.....	5,874	797	187	1,995	2,508	.....	2,929
Second week of August.....	6,042	.....	97	4,760	960	.....	1,710
Third week of August.....	3,943	780	.....	4,588	826	.....	2,102
Fourth week of August.....	4,388	.....	.....	2,590	876	800	1,936
Total of August.....	20,247	1,577	284	13,933	5,170	800	8,677
First week of September.....	7,991	.....	175	5,653	300	.....	2,482
Second week of September.....	1,020	.....	.....	1,663	690	.....	810
Third week of September.....	2,576	.....	.....	5,880	480	.....	4,002
Fourth week of September.....	4,020	.....	.....	2,943	821	.....	890
Fifth week of September.....	1,615	.....	.....	2,380	260	.....	2,123
Total of September.....	17,222	.....	175	18,519	2,551	.....	10,307
First week of October.....	1,280	.....	.....	3,885	.....	.....	600
Second week of October.....	.....	.....	.....	3,780	306	.....	600
Third week of October.....	500	1,750	274	3,640	541	.....	560
Fourth week of October.....	.....	.....	.....	6,406	.....	.....	.....
Total of October.....	1,780	1,750	274	17,711	847	.....	1,760
First week of November.....	.....	.....	.....	4,815	.....	.....	275
Second week of November.....	456	.....	210	3,158	.....	.....	975
Third week of November.....	.....	1,200	.....	.....	.....	.....	.....
Total of November.....	456	1,200	210	7,973	.....	.....	1,250
Season total.....	59,599	5,102	3,865	94,862	24,280	1,484	34,065

Annual account of property (in tons) shipped, etc.— (Continued)

MANUFACTURED PRODUCTS — (Continued)							
	Sugar	Implements, vehicles and parts	Machinery and tools	Paper and paper products	Textiles, boots shoes, etc.	Oil meal and cake	Fertilisers
First week of May	225	.....	.....	.....	.....	.....	.....
Second week of May	400	.....	.....	.....	.....	.....	.....
Third week of May	665	80	300	278	.....	.....	.....
Fourth week of May	1,068	.....	250	528	.....	.....	.....
Total of May	2,358	80	550	806	.....	.....	.....
First week of June	597	.....	616	294	.....	.....	.....
Second week of June	3,448	.....	400	352	.....	.....	.....
Third week of June	900	.....	559	184	.....	.....	.....
Fourth week of June	2,920	.....	125	523	.....	.....	.....
Total of June	7,865	.....	1,700	1,353	.....	.....	.....
First week of July	1,395	.....	200	317	.....	.....	.....
Second week of July	2,730	.....	110	217	.....	.....	.....
Third week of July	3,655	.....	250	.....	.....	.....	.....
Fourth week of July	1,350	.....	410	297	.....	.....	.....
Fifth week of July	1,780	.....	60	302	.....	.....	.....
Total of July	10,910	.....	1,030	1,133	.....	.....	.....

First week of August.....	325	...	230	.....	.....	.....	.....
Second week of August.....	405	.....	344	.....	.....	.....	.....
Third week of August.....	150	.....	250	.....	.....	.....	.....
Total of August.....	880	.....	824	.....	.....	.....	.....
First week of September.....	224	.....	386	.....	.....	.....	540
Second week of September.....	.....	.....	257	.....	.....	.....	310
Third week of September.....	.....	.....	115	.....	.....	.....	250
Fourth week of September.....	250	.....	130	.....	.....	.....	250
Fifth week of September.....	.....	.....	130	.....	.....	.....	.....
Total of September.....	474	.....	1,018	.....	.....	.....	1,350
First week of October.....	.....	.....	120	.....	.....	.....	.....
Second week of October.....	.....	.....	170	.....	.....	350	300
Third week of October.....	225	.....	200	.....	.....	.....	.....
Fourth week of October.....	.....	.....	232	.....	.....	500	.....
Total of October.....	225	.....	722	.....	.....	850	300
First week of November.....	.....	.....	360	.....	.....	.....	.....
Second week of November.....	.....	.....	65	.....	150	.....	.....
Third week of November.....	.....	.....	250	.....	.....	.....	.....
Fourth week of November.....	.....	.....	293	.....	.....	.....	.....
Fifth week of November.....	.....	.....	105	.....	.....	.....	.....
Total of November.....	.....	.....	1,073	.....	150	.....	.....
Season total.....	22,712	80	6,917	3,292	150	850	1,650

Annual account of property (in tons) shipped, etc.— (Continued)

	MANUFACTURED PRODUCTS — (Concluded)		Products of animals — Miscellaneous	MISCELLANEOUS PRODUCTS		
	Chemicals, drugs, etc.	All other		Ice	Merchandise, N. O. S.	All other
First week of May.....	.....	2,262	.....	.....	.....	.....
Second week of May.....	.....	1,205	.....	.....	325	.....
Third week of May.....	25	779	.....	.....	1,545	335
Fourth week of May.....	.....	1,054	.....	.....	609	626
Total of May.....	25	5,300	.....	.....	2,479	961
First week of June.....	960	250	.....	.....	740	785
Second week of June.....	720	896	.....	.....	807	500
Third week of June.....	480	251	.....	.....	350	200
Fourth week of June.....	706	1,098	.....	.....	720	338
Total of June.....	2,866	2,495	.....	.....	2,617	1,823
First week of July.....	1,388	3,036	.....	.....	610	.....
Second week of July.....	1,228	200	.....	190	372	.....
Third week of July.....	1,920	410	.....	960	176	60
Fourth week of July.....	705	810	.....	570	325	195
Fifth week of July.....	1,864	2,058	.....	710	512	60
Total of July.....	7,105	6,514	.....	2,430	1,995	315

First week of August.....	1,125	1,091	.....	580	586	262
Second week of August.....	1,680	3,342	.....	390	155	225
Third week of August.....	1,208	4,710	.....	460	151	196
Fourth week of August.....	2,152	2,657	.....	520	739	.....
Total of August.....	6,165	11,800	.....	1,950	1,631	683
First week of September.....	934	1,278	.....	510	206	1,016
Second week of September.....	2,346	2,434	.....	510	854	1,700
Third week of September.....	.....	461	.....	900	531	.....
Fourth week of September.....	960	898	.....	700	153	.....
Fifth week of September.....	705	1,458	4	580	522	.....
Total of September.....	4,945	6,529	4	3,200	2,266	2,716
First week of October.....	960	4,159	.....	.....	255	.....
Second week of October.....	460	515	.....	.....	345	.....
Third week of October.....	960	220	.....	.....	195	125
Fourth week of October.....	.....	428	.....	.....	100	.....
Total of October.....	2,380	5,322	.....	.....	895	125
First week of November.....	1,915	522	.....	.....	176	.....
Second week of November.....	480	605	.....	.....	188	42
Third week of November.....	1,200	350	.....	.....	.....	.....
Fourth week of November.....	.....	.....	85	.....	.....	.....
Total of November.....	3,595	1,477	85	.....	364	42
Season total.....	27,081	39,437	89	7,580	12,247	6,665

Annual account of property (in tons) shipped, etc.— (Continued)

	PRODUCTS OF AGRICULTURE						
	Wheat	Oats	Rye	Barley	Barley malt	Flour	Hay
First week of May.....	.....	.....	.....	.....	.....	.....	.....
Second week of May.....	.....	.....	.....	.....	411	.....	336
Third week of May.....	.....	.....	1,694	.....	.....	.....	601
Fourth week of May.....	720	.....	1,572	360	.....	.....	468
Total of May.....	720	.....	3,266	360	411	.....	1,455
First week of June.....	1,412	.....	9,179	.....	.....	300	357
Second week of June.....	2,183	.....	4,040	.....	.....	1,448	534
Third week of June.....	.....	.....	.....	.....	.....	.....	112
Fourth week of June.....	.....	227	2,408	.....	.....	.....	222
Total of June.....	3,595	227	15,627	.....	.....	1,748	1,225
First week of July.....	7,019	384	5,804	.....	.....	2,378	781
Second week of July.....	.....	365	.....	.....	630	1,300	190
Third week of July.....	107	.....	.....	.....	760	2,400	1,302
Fourth week of July.....	2,664	208	.....	.....	.....	.....	211
Fifth week of July.....	555	.....	.....	.....	.....	.....	465
Total of July.....	10,345	957	5,804	.....	1,390	6,078	2,949

First week of August.....	540	.....	.....	.....	.....	.....	2,080	157
Second week of August.....	.....	.....	.....	.....	.....	.....	1,030	.....
Third week of August.....	.....	.....	.....	.....	.....	.....	1,495	.....
Fourth week of August.....	752	.....	.....	.....	192	.....	350	100
Total of August.....	1,292	.....	.....	.....	192	.....	4,955	257
First week of September.....	.....	.....	.....	.....	.....	.....	.....	.....
Second week of September.....	.....	.....	.....	.....	.....	.....	250	.....
Third week of September.....	.....	.....	.....	.....	801	.....	250	70
Fourth week of September.....	.....	.....	.....	.....	.....	.....	.....	.....
Fifth week of September.....	3,953	.....	.....	.....	.....	760	.....	515
Total of September.....	3,953	.....	.....	.....	801	760	500	585
First week of October.....	1,760	.....	.....	6,141	.....	.....	680	261
Second week of October.....	8,494	.....	.....	.....	1,152	.....	1,050	468
Third week of October.....	3,709	.....	.....	.....	.....	440	.....	.....
Fourth week of October.....	7,040	.....	.....	3,290	.....	797	.....	.....
Total of October.....	21,003	.....	.....	9,431	1,152	1,237	1,730	729
First week of November.....	600	.....	.....	1,560	400	.....	.....	250
Second week of November.....	1,472	.....	.....	3,748	774	.....	.....	313
Third week of November.....	15,406	.....	.....	10,136	.....	420	.....	333
Fourth week of November.....	.....	.....	.....	.....	.....	.....	.....	584
Total of November.....	17,478	.....	.....	15,444	1,174	420	.....	1,480
Season total.....	58,386	1,184	.....	49,572	3,679	4,218	15,011	8,630

Annual account of property (in tons) shipped, etc.— (Continued)

	PRODUCTS OF AGRICULTURE — (Concluded)				PRODUCTS OF FOREST			
	Flaxseed	Cotton	Fruits and vegetables	All other	Lumber	Wood pulp	Pulpwood	All other
First week of May.....	.....	.....	.....	.....	534	.....	.....	.....
Second week of May.....	1,663	.....	.....	.....	1,757	150	.....	.....
Third week of May.....	12,054	.....	.....	235	3,661	.....	.....	.....
Fourth week of May.....	6,167	.....	336	250	5,505	253	.....	.....
Total of May.....	19,884	.....	336	485	11,457	403	.....	.....
First week of June.....	6,138	.....	.....	.....	4,788	541	.....	.....
Second week of June.....	3,841	.....	.....	.....	8,088	1,085	1,512	120
Third week of June.....	5,276	.....	.....	.....	12,040	150	1,445	108
Fourth week of June.....	2,682	.....	.....	.....	3,400	.....	1,783	.....
Total of June.....	17,937	.....	.....	.....	28,316	1,776	4,740	228
First week of July.....	3,203	.....	.....	.....	6,706	.....	.....	.....
Second week of July.....	1,250	.....	.....	.....	5,068	.....	1,115	601
Third week of July.....	3,956	.....	.....	.....	5,041	240	888	100
Fourth week of July.....	910	.....	.....	.....	3,953	.....	2,084	275
Fifth week of July.....	1,170	.....	.....	.....	4,258	.....	3,545	248
Total of July.....	10,489	.....	.....	.....	25,026	240	7,632	1,222

First week of August.....	1,708	60	.....	7,949	823	5,630	246
Second week of August.....	1,088	35	.....	7,597	.....	5,748	.....
Third week of August.....	.....	.....	.....	5,649	.....	2,290	.....
Fourth week of August.....	787	35	.....	3,545	496	5,184	.....
Total of August.....	3,583	130	.....	24,740	1,319	18,852	246
First week of September.....	3,433	.....	.....	5,652	514	2,124	297
Second week of September.....	5,243	.....	.....	5,824	503	2,869	.....
Third week of September.....	2,630	.....	.....	5,812	108	4,991	.....
Fourth week of September.....	450	.....	.....	5,536	520	.....	.....
Fifth week of September.....	1,932	.....	.....	5,057	.....	3,797	718
Total of September.....	13,688	.....	.....	27,881	1,705	13,781	1,015
First week of October.....	1,975	.....	.....	8,710	529	7,779	.....
Second week of October.....	674	.....	.....	3,769	.....	2,356	.....
Third week of October.....	6,291	20	20	7,961	492	3,206	.....
Fourth week of October.....	2,065	9	9	5,924	228	5,222	.....
Total of October.....	11,005	29	29	26,364	1,249	18,563	.....
First week of November.....	2,717	.....	.....	2,960	503	2,636	.....
Second week of November.....	1,812	709	709	8,797	483	2,433	.....
Third week of November.....	350	1,407	1,407	4,116	.....	3,307	.....
Fourth week of November.....	.....	420	420	3,013	.....	3,028	348
Fifth week of November.....	.....	630	630	551	.....	.....	.....
Total of November.....	4,879	3,166	3,166	19,437	986	11,404	348
Season total.....	81,465	130	3,531	163,221	7,678	74,972	3,059

Annual account of property (in tons) shipped, etc.— (Concluded)

	PRODUCTS OF THE GROUND						Total
	Anthracite coal	Bituminous coal	Iron ore	Sand, stone and gravel	Clay	All other	
First week of May.....	146	.....	.....	.....	.....	.....	5,195
Second week of May.....	171	.....	4,188	6,400	730	.....	20,708
Third week of May.....	387	651	2,352	9,782	1,783	1,000	41,444
Fourth week of May.....	3,550	1,384	3,472	14,284	542	.....	48,022
Total of May.....	4,254	2,035	10,012	30,466	3,055	1,000	115,369
First week of June.....	5,035	582	3,248	11,174	700	.....	52,639
Second week of June.....	1,469	1,806	3,920	10,285	560	.....	52,715
Third week of June.....	2,052	346	3,472	10,780	1,042	542	47,742
Fourth week of June.....	3,332	110	4,144	13,543	1,301	.....	43,923
Total of June.....	11,888	2,844	14,784	45,782	3,603	542	197,019
First week of July.....	2,054	.....	6,048	14,080	1,044	.....	63,354
Second week of July.....	2,081	350	4,592	14,484	1,382	1,088	50,537
Third week of July.....	1,200	150	5,040	15,140	560	.....	59,629
Fourth week of July.....	2,515	373	5,936	13,722	538	.....	47,555
Fifth week of July.....	2,929	.....	2,688	11,192	532	913	47,005
Total of July.....	10,779	873	24,304	68,618	4,056	2,001	268,080

First week of August.....	2,261	845	6,324	11,658	1,009	200	59,979
Second week of August.....	1,225	.....	5,420	13,007	134	.....	55,394
Third week of August.....	1,359	534	8,048	12,726	504	.....	51,969
Fourth week of August.....	1,770	112	2,628	14,595	1,991	.....	49,195
Total of August.....	6,615	1,491	22,420	51,986	3,638	200	216,537
First week of September.....	1,961	.....	9,280	13,309	1,312	.....	59,577
Second week of September.....	1,995	213	5,704	3,213	2,245	550	41,203
Third week of September.....	2,093	.....	5,876	21,358	524	.....	59,768
Fourth week of September.....	1,200	267	5,420	15,200	.....	.....	40,608
Fifth week of September.....	1,706	.....	3,016	13,459	536	255	45,481
Total of September.....	8,955	480	29,296	66,539	4,617	805	246,637
First week of October.....	1,538	.....	7,668	12,497	1,274	.....	62,071
Second week of October.....	1,920	5	3,016	15,404	806	.....	45,940
Third week of October.....	1,411	.....	7,144	14,417	522	.....	54,803
Fourth week of October.....	1,342	248	4,532	12,345	.....	.....	50,708
Total of October.....	6,211	253	22,360	54,663	2,602	.....	213,522
First week of November.....	2,168	.....	4,756	13,875	538	884	41,910
Second week of November.....	1,200	.....	1,844	14,418	1,530	.....	45,862
Third week of November.....	291	.....	2,352	13,986	272	.....	55,376
Fourth week of November.....	1,325	.....	.....	2,240	.....	.....	11,336
Fifth week of November.....	.....	.....	.....	8,500	.....	.....	9,786
Total of November.....	4,984	.....	8,952	53,019	2,340	844	164,270
Season total.....	53,686	7,976	132,128	371,073	23,911	5,432	1,421,434

ANNUAL STATEMENT showing the total quantity (in tons

	MANUFACTURED					
	Iron, pig and bloom	Iron or steel articles	Other metals	Petroleum and other oil	Cement and lime	Brick
May			888	7,621	2,608	669
June	591	3	702	13,109	3,667	15
July	19,303	572	1,332	15,996	9,437	.....
August	20,247	1,577	284	13,933	5,170	800
September	17,222	.....	175	18,519	2,551	.....
October	1,780	1,750	274	17,711	847	.....
November	456	1,200	210	7,973	.....	.....
Total for season	59,599	5,102	3,865	94,862	24,280	1,484

ANNUAL STATEMENT showing the total quantity (in tons of 2,000

May					2,608	474
June	591		294		3,667	.....
July	19,303	560	710		8,477	.....
August	20,247	1,577	.....		4,256	800
September	17,222	.....	.....		2,133	.....
October	1,780	1,750	.....		847	.....
November	456	1,200	.....	640	.....	.....
Total for season	59,599	5,087	1,004	640	21,988	1,274

ANNUAL STATEMENT showing the total quantity (in tons of 2,000

May			888	7,621	.....	195
June		3	408	13,109	.....	15
July		12	622	15,996	960	.....
August .....		.....	284	13,933	914	.....
September .....		.....	175	18,519	418	.....
October .....		.....	274	17,711	.....	.....
November .....		.....	210	7,333	.....	.....
Total for season	.....	15	2,861	94,222	2,292	210

of 2,000 lbs.) carried on the canals during the season of 1920

PRODUCTS

Salt	Sugar	Imple- ments, vehicles and parts	Machinery and tools	Paper and paper products	Textiles, boots, shoes, etc.	Oil meal and cake	Fertilizers
1,475	2,358	80	550	806			
3,351	7,865		1,700	1,353			
7,245	10,910		1,030	1,133			
8,677	880		824				
10,307	474		1,018				1,350
1,760	225		722			850	300
1,250			1,073		150		
34,065	22,712	80	6,917	3,292	150	850	1,650

lbs.) of eastbound freight on the canals for the season of 1920

1,475		80	550	806			
3,351			925	1,220			
7,245			490	836			
8,677			515				
10,307	250		690				
1,760			602			850	
1,250			725				
34,065	250	80	4,497	2,862		850	

lbs.) of westbound freight on the canals for the season of 1920

	2,358						
	7,865		775	133			
	10,910		540	297			
	880		309				
	224		328				1,350
	225		120				300
			348		150		
	22,462		2,420	430	150		1,650

ANNUAL STATEMENT showing the total quantity (in tons of 2,000

	MANUFACTURED PRODUCTS — (Concl'd)		Products of animals.—Miscellaneous	MISCELLANEOUS PRODUCTS		
	Chemicals, drugs, etc.	All other		Ice	Merchandise, N. O. S.	All other
May.....	25	5,300	.....	.....	2,479	961
June.....	2,866	2,495	.....	.....	2,617	1,823
July.....	7,105	6,514	.....	2,430	1,995	315
August.....	6,165	11,800	.....	1,950	1,631	683
September.....	4,945	6,529	4	3,200	2,266	2,716
October.....	2,380	5,322	.....	.....	895	125
November.....	3,595	1,477	85	.....	364	42
Total for season	27,081	39,437	89	7,580	12,247	6,665

ANNUAL STATEMENT showing the total quantity (in tons of 2,000

May.....	.....	.....	.....	.....	.....	.....
June.....	2,866	200	.....	.....	.....	.....
July.....	6,605	309	.....	.....	344	.....
August.....	6,165	174	.....	.....	76	.....
September.....	4,945	697	4	.....	243	.....
October.....	2,380	175	.....	.....	105	125
November.....	3,595	70	85	.....	25	.....
Total for season	26,556	1,625	89	.....	793	125

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)

May.....	25	5,300	.....	.....	2,479	961
June.....	.....	2,295	.....	.....	2,617	1,823
July.....	500	6,205	.....	2,430	1,651	315
August.....	.....	11,626	.....	1,950	1,555	683
September.....	.....	5,832	.....	3,200	2,023	2,716
October.....	.....	5,147	.....	.....	790	.....
November.....	.....	1,407	.....	.....	339	42
Total for season	525	37,812	.....	7,580	11,454	6,540

Lbs.) carried on the canals during the season of 1920 — (Continued)

PRODUCTS OF AGRICULTURE

Wheat	Oats	Rye	Barley	Barley malt	Flour	Hay	Flaxseed
720		3,266	360	411		1,405	19,884
3,595	227	15,627			1,748	1,225	17,937
10,345	957	5,804		1,390	6,078	2,949	10,489
1,292			192		4,955	257	3,583
3,953			801	760	500	585	13,688
21,003		9,431	1,152	1,237	1,730	729	11,005
17,478		15,444	1,174	420		1,480	4,879
58,386	1,184	49,572	3,679	4,218	15,011	8,630	81,465

Lbs.) of eastbound freight on the canals for season of 1920 — (Continued)

720		3,266	360	411		1,405	
3,595	227	15,627			1,748	1,185	
10,345	957	5,804		1,390	6,078	2,949	
1,292			192		4,955	257	
3,953			801	760	500	585	
21,003		9,431	1,152	1,237	1,730	729	
17,478		15,444	1,174	420		1,480	
58,386	1,184	49,572	3,679	4,218	15,011	8,590	

of westbound freight on the canals for the season of 1920 — (Continued)

							19,884
						40	17,937
							10,489
							3,583
							13,688
							11,005
							4,879
						40	81,465

ANNUAL STATEMENT showing the total quantity (in tons of 2,000

	PRODUCTS OF AGRICULTURE — (Concluded)			PRODUCTS OF FOREST		
	Cotton	Fruits and vegetables	All other	Lumber	Wood pulp	Pulpwood
May.....		336	485	11,457	403	.....
June.....				28,316	1,776	4,740
July.....				25,026	240	7,632
August.....	130			24,740	1,319	18,852
September.....				27,881	1,705	13,781
October.....		29		26,364	1,249	18,563
November.....		3,166		19,437	986	11,404
Total for season	130	3,531	485	163,221	7,678	74,972

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)

May.....				10,881	253	.....
June.....				28,316	1,626	4,740
July.....				25,026	240	7,632
August.....				24,740	1,319	18,852
September.....				27,715	1,017	13,781
October.....		29		26,364	1,249	18,563
November.....		3,166		19,437	986	9,568
Total for season		3,195		162,479	6,690	73,136

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)

May.....		336	485	576	150	.....
June.....					150	.....
July.....						.....
August.....	130					.....
September.....				166	688	.....
October.....						.....
November.....						1,836
Total for season	130	336	485	742	988	1,836

lbs.) carried on the canals during the season of 1920 — (Concluded)

All other	PRODUCTS OF THE GROUND						Total
	Anthra- cite coal	Bitu- minous coal	Iron ore	Sand, stone, gravel	Clay	All other	
.....	4,254	2,035	10,012	30,466	3,055	1,000	115,369
228	11,888	2,844	14,784	45,782	3,603	542	197,019
1,222	10,779	873	24,304	68,618	4,056	2,001	268,080
246	6,615	1,491	22,420	51,986	3,638	200	216,537
1,015	8,955	480	29,296	66,539	4,617	805	246,637
.....	6,211	253	22,360	54,663	2,602	.....	213,522
348	4,984	.....	8,952	53,019	2,340	884	164,270
3,059	53,686	7,976	132,128	371,073	23,911	5,432	1,421,434

of eastbound freight on the canals for season of 1920 — (Concluded)

.....	.....	.....	9,900	3,950	.....	.....	37,139
228	7,600	1,310	14,784	10,471	.....	542	105,113
1,222	6,000	658	24,304	14,245	.....	2,001	153,730
246	4,800	901	22,420	11,185	.....	200	133,846
1,015	6,000	.....	29,296	11,380	.....	805	134,099
.....	4,800	.....	22,360	6,105	.....	.....	125,126
348	3,600	.....	8,952	7,347	.....	884	98,330
3,059	32,800	2,869	132,016	64,683	.....	4,432	787,383

of westbound freight on the canals for the season of 1920 — (Concluded)

.....	4,254	2,035	112	26,516	3,055	1,000	78,230
.....	4,288	1,534	.....	35,311	3,603	.....	91,906
.....	4,779	215	.....	54,373	4,056	.....	114,350
.....	1,815	590	.....	40,801	3,638	.....	82,691
.....	2,955	480	.....	55,159	4,617	.....	112,538
.....	1,411	253	.....	48,558	2,602	.....	88,396
.....	1,384	.....	.....	45,672	2,340	.....	65,940
.....	20,886	5,107	.....	306,390	23,911	1,000	634,051

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)

	MANUFACTURED			
	Iron, pig and bloom	Iron or steel articles	Other metals	Petroleum and other oil
May.....				1,601
June.....	591	3		3,080
July.....	19,303	572		5,602
August.....	19,447	1,577		2,680
September.....	16,982			6,860
October.....	1,780	1,750		3,780
November.....	456	1,200	210	1,081
Total for season.....	58,559	5,102	210	24,684

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)

May.....				
June.....	591			
July.....	19,303	560		
August.....	19,447	1,577		
September.....	16,982			
October.....	1,780	1,750		
November.....	456	1,200		90
Total for season.....	58,559	5,087		90

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)

May.....				1,601
June.....		3		3,080
July.....		12		5,602
August.....				2,680
September.....				6,860
October.....				3,780
November.....			210	991
Total for season.....		15	210	24,594

*of through freight going east and west during the season of 1920***Products**

Cement and lime	Brick	Salt	Sugar	Paper and paper products	Oil meal and cake	Fertilisers	All other
400	195	.....	224	528	.....	.....	4,069
.....	.....	707	4,914	730	.....	.....	1,879
.....	.....	1,233	6,750	424	.....	.....	4,114
.....	.....	1,523	325	.....	.....	.....	4,840
.....	.....	1,258	474	.....	.....	1,350	4,983
.....	.....	.....	225	.....	850	300	4,137
.....	.....	.....	.....	.....	.....	.....	916
400	195	4,721	12,912	1,682	850	1,650	24,938

of eastbound through freight on the canals during the season of 1920

400	.....	.....	.....	528	.....	.....	.....
.....	.....	707	.....	681	.....	.....	.....
.....	.....	1,233	.....	127	.....	.....	.....
.....	.....	1,523	.....	.....	.....	.....	.....
.....	.....	1,258	250	.....	.....	.....	.....
.....	.....	.....	.....	.....	850	.....	.....
.....
400	.....	4,721	250	1,336	850	.....	.....

of westbound through freight on the canals during the season of 1920

.....	195	.....	224	.....	.....	.....	4,069
.....	.....	.....	4,914	49	.....	.....	1,879
.....	.....	.....	6,750	297	.....	.....	4,114
.....	.....	.....	325	.....	.....	.....	4,840
.....	.....	.....	224	.....	.....	1,350	4,983
.....	.....	.....	225	.....	.....	300	4,137
.....	.....	.....	.....	.....	.....	.....	916
.....	195	.....	12,662	346	.....	1,650	24,938

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.) of

	Products of animals.— All other	MISCELLANEOUS PRODUCTS		Wheat
		Merchandise N. O. S.	All other	
May.....		2,462	480	720
June.....		2,237	818	3,595
July.....		1,393		10,345
August.....		1,181	421	1,292
September.....	4	883	218	3,953
October.....		485		21,003
November.....	85	115		17,478
Total for season.....	89	8,756	1,937	58,386

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.) of

May.....				720
June.....				3,595
July.....		182		10,345
August.....				1,292
September.....	4			3,953
October.....				21,003
November.....	85			17,478
Total for season.....	89	182		58,386

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.) of

May.....		2,462	480	
June.....		2,237	818	
July.....		1,211		
August.....		1,181	421	
September.....		883	218	
October.....		485		
November.....		115		
Total for season.....		8,574	1,937	

through freight going east and west during the season of 1920 — (Cont'd)

PRODUCTS OF AGRICULTURE

Oats	Rye	Barley	Barley malt	Flour	Hay	Flaxseed	Cotton
.....	3,266	360	411	.....	1,278	19,884	.....
227	15,627	.....	.....	1,748	1,026	17,937	.....
957	5,804	.....	1,390	5,800	2,284	10,489	.....
.....	.....	192	.....	4,955	157	3,583	70
.....	.....	801	760	500	515	13,688	.....
.....	9,431	1,152	1,237	1,730	729	11,005	.....
.....	15,444	1,174	420	.....	858	4,879	.....
1,184	49,572	3,679	4,218	14,733	6,847	81,465	70

eastbound through freight on the canals during the season of 1920—(Con.)

.....	3,266	360	411	.....	1,278	.....	.....
227	15,627	.....	.....	1,748	1,026	.....	.....
957	5,804	.....	1,390	5,800	2,284	.....	.....
.....	.....	192	.....	4,955	157	.....	.....
.....	.....	801	760	500	515	.....	.....
.....	9,431	1,152	1,237	1,730	729	.....	.....
.....	15,444	1,174	420	.....	858	.....	.....
1,184	49,572	3,679	4,218	14,733	6,847	.....	.....

westbound through freight on the canals during the season of 1920—(Con.)

.....	.....	.....	.....	.....	.....	19,884	.....
.....	.....	.....	.....	.....	.....	17,937	.....
.....	.....	.....	.....	.....	.....	10,489	.....
.....	.....	.....	.....	.....	.....	3,583	70
.....	.....	.....	.....	.....	.....	13,688	.....
.....	.....	.....	.....	.....	.....	11,005	.....
.....	.....	.....	.....	.....	.....	4,879	.....
.....	.....	.....	.....	.....	.....	81,465	70

ANNUAL STATEMENT *showing the total quantity (in tons of 2,000 lbs.) of*

	PRODUCTS OF AGRICULTURE — (Concluded)		PRODUCTS OF FOREST		
	Fruits and vegetables	All other	Lumber	Wood pulp	All other
May.....	336	200	5,966	253	.....
June.....			18,094	1,085	120
July.....			12,761	240	876
August.....			12,855	1,319	.....
September.....			11,527	1,017	567
October.....			14,018	1,249	.....
November.....			10,508	986	.....
Total for season..	336	200	85,729	6,149	1,563

ANNUAL STATEMENT *showing the total quantity (in tons of 2,000 lbs.) of*

May.....			5,390	253	.....
June.....			18,094	1,085	120
July.....			12,761	240	876
August.....			12,855	1,319	.....
September.....			11,527	1,017	567
October.....			14,018	1,249	.....
November.....			10,508	986	.....
Total for season..			85,153	6,149	1,563

ANNUAL STATEMENT *showing the total quantity (in tons of 2,000 lbs.) of*

May.....	336	200	576	.....	.....
June.....					
July.....					
August.....					
September.....					
October.....					
November.....					
Total for season..	336	200	576	.....	.....

through freight going east and west during the season of 1920 — (Con'd)

PRODUCTS OF THE GROUND						Total
Anthracite coal	Bituminous coal	Iron ore	Sand, stone, gravel	Clay	All other	
2,352	2,035	10,012	2,042	1,965	250	61,289
3,681	582	14,784		1,365	542	95,372
3,137		24,304	3,212	3,793		124,783
1,021	366	22,420	700	1,555		82,479
2,587	480	29,296	3,493	2,997	255	105,448
	248	22,360	3,625	2,370		103,464
442		8,952	1,622	2,340		69,166
13,220	3,711	132,128	14,694	16,385	1,047	642,001

eastbound through freight on the canals during the season of 1920 — (C'd)

		9,900				22,506
		14,784			542	58,827
		24,304	1,040			87,206
		22,420				65,737
		29,296	993		255	68,678
		22,360				77,289
		8,952				57,651
		132,016	2,033		797	437,894

westbound through freight on the canals during the season of 1920 — (C'd)

2,352	2,035	112	2,042	1,965	250	38,783
3,681	582			1,365		36,545
3,137			2,172	3,793		37,577
1,021	366		700	1,555		16,742
2,587	480		2,500	2,997		36,770
	248		3,625	2,370		26,175
442			1,622	2,340		11,515
13,220	3,711	112	12,661	16,385	250	204,107

ANNUAL STATEMENT showing the total quantity (in tons of 2,000

	MANUFACTURED						
	Iron, pig and bloom	Other metals	Petro- leum and other oil	Cement and lime	Brick	Salt	Sugar
May		888	6,020	2,208	474	1,475	2,134
June		702	10,029	3,667	15	2,644	2,951
July		1,332	10,394	9,437		6,012	4,160
August	800	284	11,253	5,170	800	7,154	555
September	240	175	11,659	2,551		9,049	
October		274	13,931	847		1,760	
November			6,892			1,250	
Total for season..	1,040	3,655	70,178	23,880	1,289	29,344	9,800

ANNUAL STATEMENT showing the total quantity (in tons of

May				2,208	474	1,475	
June		294		3,667		2,644	
July		710		8,477		6,012	
August	800			4,256	800	7,154	
September	240			2,133		9,049	
October				847		1,760	
November			550			1,250	
Total for season...	1,040	1,004	550	21,588	1,274	29,344	

ANNUAL STATEMENT showing the total quantity (in tons of

May		888	6,020				2,134
June		408	10,029		15		2,951
July		622	10,394	960			4,160
August		284	11,253	914			555
September		175	11,659	418			
October		274	13,931				
November			6,342				
Total for season...		2,651	69,628	2,292	15		9,800

lbs.) of local freight going east and west during the season of 1920

Products						Miscellaneous Products		
Imple- ments, vehicles and parts	Ma- chinery and tools	Paper and paper products	Textiles, boots, shoes, etc.	Chem- icals, drugs, etc.	All other	Ice	Mer- chandise, N. O. S.	All other
80	550	278	.....	25	1,231	.....	17	481
.....	1,700	623	.....	2,866	616	.....	380	1,005
.....	1,030	709	.....	7,105	2,400	2,430	602	315
.....	824	.....	.....	6,165	6,960	1,950	450	262
.....	1,018	.....	.....	4,945	1,546	3,200	1,383	2,498
.....	722	.....	.....	2,380	1,185	.....	410	125
.....	1,073	.....	150	3,595	561	.....	249	42
80	6,917	1,610	150	27,081	14,499	7,580	3,491	4,728

2,000 lbs.) of local eastbound freight during the season of 1920

80	550	278	.....	.....	.....	.....	.....
.....	925	539	.....	2,866	200	.....	.....
.....	490	709	.....	6,605	309	.....	162
.....	515	.....	.....	6,165	174	.....	76
.....	690	.....	.....	4,945	697	.....	243
.....	602	.....	.....	2,380	175	.....	105
.....	725	.....	.....	3,595	70	.....	25
80	4,497	1,526	.....	26,556	1,625	.....	611
.....	.....	.....	.....	.....	.....	.....	125

2,000 lbs.) of local westbound freight during the season of 1920

.....	25	1,231	17	481
.....	775	84	.....	.....	416	.....	380	1,005
.....	540	.....	.....	500	2,091	2,430	440	315
.....	309	.....	.....	.....	6,786	1,950	374	262
.....	328	849	3,200	1,140	2,498
.....	120	1,010	305
.....	348	150	491	224	42
.....	2,420	84	150	525	12,874	7,580	2,880	4,603

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ANNUAL STATEMENT *showing the total quantity (in tons of 2,000 lbs.) of*

	PRODUCTS OF AGRICULTURE					PRODUCTS	
	Flour	Hay	Cotton	Fruits and veg- tables	All other	Lumber	Wood pulp
May		127			285	5,491	150
June		199				10,222	691
July	278	665				12,265	
August		100	60			11,885	
September		70				16,354	688
October				29		12,346	
November		622		3,166		8,929	
Total for season...	278	1,783	60	3,195		77,492	1,529

ANNUAL STATEMENT *showing the total quantity (in tons of 2,000 lbs.)*

May		127				5,491	
June		159				10,222	541
July	278	665				12,265	
August		100				11,885	
September		70				16,188	
October				29		12,346	
November		622		3,166		8,929	
Total for season...	278	1,743		3,195		77,326	541

ANNUAL STATEMENT *showing the total quantity (in tons of 2,000 lbs.)*

May				285		150
June		40				150
July			60			
August						
September					166	688
October						
November						
Total for season...		40	60	285	166	988

local freight going east and west during the season of 1920—(Concl'd)

OF FOREST		PRODUCTS OF THE GROUND					Total
Pulpwood	All other	Anthra- cite coal	Bitu- minous coal	Sand, stone, gravel	Clay	All other	
.....	.....	1,902	.....	28,424	1,090	750	54,080
4,740	108	8,207	2,262	45,782	2,238	.....	101,647
7,632	346	7,642	873	65,406	263	2,001	143,297
18,852	246	5,594	1,125	51,286	2,083	200	134,058
13,781	448	6,368	.....	63,046	1,620	550	141,189
18,563	.....	6,211	5	51,038	232	.....	110,058
11,404	348	4,542	.....	51,397	.....	884	95,104
74,972	1,496	40,466	4,265	356,379	7,526	4,385	779,433

of local eastbound freight during the season of 1920 — (Concluded)

.....	.....	.....	.....	3,950	.....	.....	14,633
4,740	108	7,600	1,310	10,471	.....	.....	46,286
7,632	346	6,000	658	13,205	.....	2,001	66,524
18,852	246	4,800	901	11,185	.....	200	68,109
13,781	448	6,000	.....	10,387	.....	550	65,421
18,563	.....	4,800	.....	6,105	.....	.....	47,837
9,568	348	3,600	.....	7,347	.....	884	40,679
73,136	1,496	32,800	2,869	62,650	.....	3,635	349,489

of local westbound freight during the season of 1920 — (Concluded)

.....	.....	1,902	.....	24,474	1,090	750	39,447
.....	.....	607	952	35,311	2,238	.....	55,361
.....	.....	1,642	215	52,201	263	.....	76,773
.....	.....	794	224	40,101	2,083	.....	65,949
.....	.....	368	.....	52,659	1,620	.....	75,768
.....	.....	1,411	5	44,933	232	.....	62,221
1,836	.....	942	.....	44,050	.....	.....	54,425
1,836	.....	7,666	1,396	293,729	7,526	750	429,944

ERIE

ANNUAL STATEMENT showing the total quantity (in

	MANUFACTURED			
	Iron, pig and bloom	Iron or steel articles	Other metals	Petroleum and other oil
May.....			888	7,003
June.....	591		702	9,416
July.....	19,303	560	1,332	9,929
August.....	20,247	1,577	284	10,958
September.....	17,222		175	10,119
October.....	1,780	1,750	274	10,991
November.....	456	1,200	210	5,758
Total for season.....	59,599	5,087	3,865	64,174

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of

May.....				
June.....	591		294	
July.....	19,303	560	710	
August.....	20,247	1,577		
September.....	17,222			
October.....	1,780	1,570		
November.....	456	1,200		
Total for season.....	59,599	5,087	1,004	

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons

May.....			888	7,003
June.....			408	9,416
July.....			622	9,929
August.....			284	10,958
September.....			175	10,119
October.....			274	10,991
November.....			210	5,758
Total for season.....			2,861	64,174

DIVISION

tons of 2,000 lbs.) carried during the season of 1920

Products

Cement and lime	Brick	Salt	Sugar	Implements, vehicles and parts	Machinery and tools	Paper and paper products	Textiles, boots, shoes, etc.
.....	474	1,475	2,358	80	550	.....	.....
.....	.....	1,910	7,865	.....	1,700	133	.....
960	.....	3,902	10,910	.....	1,030	387	.....
.....	800	5,625	880	.....	824	.....	.....
.....	.....	7,408	474	.....	1,018	.....	.....
.....	.....	1,760	225	.....	722	.....	.....
.....	.....	1,250	.....	.....	1,073	.....	150
960	1,274	23,330	22,712	80	6,917	520	150

— (Continued)

2,000 lbs.) of eastbound freight during the season of 1920

.....	474	1,475	.....	80	550	.....	.....
.....	.....	1,910	.....	.....	925	.....	.....
.....	.....	3,902	.....	.....	490	90	.....
.....	800	5,625	.....	.....	515	.....	.....
.....	.....	7,408	250	.....	690	.....	.....
.....	.....	1,760	.....	.....	602	.....	.....
.....	.....	1,250	.....	.....	725	.....	.....
.....	1,274	23,330	250	80	4,497	90	.....

— (Continued)

of 2,000 lbs.) of westbound freight during the season of 1920

.....	.....	.....	2,358	.....	.....	.....	.....
.....	.....	.....	7,865	.....	775	133	.....
960	.....	.....	10,910	.....	540	297	.....
.....	.....	.....	880	.....	309	.....	.....
.....	.....	.....	224	.....	328	.....	.....
.....	.....	.....	225	.....	120	.....	.....
.....	.....	.....	.....	.....	348	.....	150
960	.....	.....	22,462	.....	2,420	430	150

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of

	MANUFACTURED PRODUCTS — <i>Excluded</i> —			MISCELLANEOUS PRODUCTS		
	Oil meal and cake	Chem- icals, drugs, etc.	All other	Ice	Mer- chandise, N. O. S.	All other
May.....		25	1,234		2,479	961
June.....		2,866	2,495		2,617	1,820
July.....		7,105	1,137	2,430	1,995	315
August.....		6,165	4,140	1,950	1,631	683
September.....		4,945	2,693	3,200	2,266	2,716
October.....	850	2,380	773		895	125
November.....		3,595	1,141		364	42
Total for season.....	850	27,081	13,613	7,580	12,247	6,662

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000

May.....						
June.....		2,866	200			
July.....		6,605	109		344	
August.....		6,165	174		76	
September.....		4,945	461		243	
October.....	850	2,380	175		105	125
November.....		3,595	70		25	
Total for season.....		26,556	1,189		793	125

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000

May.....		25	1,234		2,479	961
June.....			2,295		2,617	1,820
July.....		500	1,028	2,430	1,651	315
August.....			3,966	1,950	1,555	683
September.....			2,232	3,200	2,023	2,716
October.....			598		790	
November.....			1,071		339	42
Total for season.....		525	12,424	7,580	11,454	6,537

— (Continued)

2,000 lbs.) carried during the season of 1920 — (Continued)

PRODUCTS OF AGRICULTURE

Wheat	Oats	Rye	Barley	Barley malt	Flour	Hay	Flaxseed
720		3,266	360	411			19,382
3,595	227	15,627			1,748	69	15,085
10,345	957	5,804		1,390	6,078	665	10,489
1,292			192		4,955	100	3,583
3,953			801	760	500		13,688
21,003		9,431	1,152	1,237	1,730		11,005
17,478		15,444	1,174	420		460	4,879
58,386	1,184	49,572	3,679	4,218	15,011	1,294	78,111

— (Continued)

lbs.) of eastbound freight during the season of 1920 — (Continued)

720		3,266	360	411			
3,595	227	15,627			1,748	69	
10,345	957	5,804		1,390	6,078	665	
1,292			192		4,955	100	
3,953			801	760	500		
21,003		9,431	1,152	1,237	1,730		
17,478		15,444	1,174	420		460	
58,386	1,184	49,572	3,679	4,218	15,011	1,294	

— (Continued)

lbs.) of westbound freight during the season of 1920 — (Continued)

							19,382
							15,085
							10,489
							3,583
							13,688
							11,005
							4,879
							78,111

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of

	PRODUCT OF AGRICULTURE — (Concluded)			PRODUCTS
	Cotton	Fruits and vege- tables	All other	Lumber
May.....		336	485	1,266
June.....				4,465
July.....				4,550
August.....	130			6,370
September.....				8,319
October.....				5,470
November.....		630		3,068
Total for season.....	130	966	485	33,508

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000

May.....				1,266
June.....				4,465
July.....				4,550
August.....				6,370
September.....				8,153
October.....				5,470
November.....		630		3,068
Total for season.....		630		33,342

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000

May.....		336	485	
June.....				
July.....				
August.....	130			
September.....				166
October.....				
November.....				
Total for season.....	130	336	485	166

— (Continued)

2,000 lbs.) carried during the season of 1920 — (Concluded)

OF FOREST		PRODUCTS OF THE GROUND					Total
Wood pulp	All other	Anthracite coal	Bituminous coal	Sand, stone, gravel	Clay	All other	
150		1,138		28,802	1,568	250	75,661
150	120	7,600	2,262	39,426	2,238		124,727
	976	6,945	658	57,349	538	2,001	170,040
		5,435	1,013	45,442	3,000	200	127,476
360	769	6,368		56,830	2,001	550	147,135
		5,791	5	49,640	1,804		130,793
	348	3,980		50,144	1,241	884	115,389
660	2,213	37,257	3,938	327,633	12,390	3,885	891,221

— (Continued)

lbs.) of eastbound freight during the season of 1920 — (Concluded)

				3,350			11,952
	120	7,600	1,310	6,026			47,573
	976	6,000	658	5,700		2,001	77,237
		4,800	901	5,071		200	59,060
	769	6,000		3,829		550	56,534
		4,800		2,200			56,550
	348	3,600		4,472		884	55,299
	2,213	32,800	2,869	30,648		3,635	364,205

— (Continued)

lbs.) of westbound freight during the season of 1920 — (Concluded)

150		1,138		25,452	1,568	250	63,709
150			952	33,400	2,238		77,154
		945		51,649	538		92,803
		635	112	40,371	3,000		68,416
360		368		53,001	2,001		90,601
		991	5	47,440	1,804		74,243
		380		45,672	1,241		60,090
660		4,457	1,069	296,985	12,390	250	527,016

ERIE DIVISION

ANNUAL STATEMENT *showing the total quantity (in tons of*

	MANUFACTURED				
	Iron, pig and bloom	Iron or steel articles	Other metals	Petroleum and other oil	Salt
May.....				983	
June.....	591				
July.....	19,303	560		130	270
August.....	19,447	1,577		300	250
September.....	16,982				
October.....	1,780	1,750			
November.....	456	1,200	210		
Total for season.....	58,559	5,087	210	1,413	520

ERIE DIVISION

ANNUAL STATEMENT *showing the total quantity (in tons of*

May.....					
June.....	591				
July.....	19,303	560			270
August.....	19,447	1,577			250
September.....	16,982				
October.....	1,780	1,750			
November.....	456	1,200			
Total for season.....	58,559	5,087			520

ERIE DIVISION

ANNUAL STATEMENT *showing the total quantity (in tons of*

May.....				983	
June.....					
July.....				130	
August.....				300	
September.....					
October.....					
November.....			210		
Total for season.....			210	1,413	

— (Continued)

2,000 lbs.) of through freight carried during the season of 1920

PRODUCTS				MISCELLANEOUS PRODUCTS		PRODUCTS OF AGRICULTURE	
Sugar	Paper and paper products	Oil meal and cake	All other	Merchandise, N. O. S.	All other	Wheat	Oats
224	.....	.....	339	2,462	480	720	.....
4,914	49	.....	1,879	2,237	815	3,595	227
6,750	297	.....	488	1,393	.....	10,345	957
325	.....	.....	759	1,181	421	1,292	.....
474	.....	.....	1,888	883	218	3,953	.....
225	.....	850	92	485	.....	21,003	.....
.....	.....	.....	916	115	.....	17,478	.....
12,912	346	850	6,361	8,756	1,934	58,386	1,184

— (Continued)

2,000 lbs.) of through freight, eastbound, during the season of 1920

.....	.....	.....	.....	.....	.....	720	.....
.....	.....	.....	.....	.....	.....	3,595	227
.....	.....	.....	.....	182	.....	10,345	957
.....	.....	.....	.....	.....	.....	1,292	.....
250	.....	.....	.....	.....	.....	3,953	.....
.....	.....	850	.....	.....	.....	21,003	.....
.....	.....	.....	.....	.....	.....	17,478	.....
250	.....	850	.....	182	.....	58,386	1,184

— (Continued)

2,000 lbs.) of through freight, westbound, during the season of 1920

224	.....	.....	339	2,462	480	.....	.....
4,914	49	.....	1,879	2,237	815	.....	.....
6,750	297	.....	488	1,211	.....	.....	.....
325	.....	.....	759	1,181	421	.....	.....
224	.....	.....	1,888	883	218	.....	.....
225	.....	.....	92	485	.....	.....	.....
.....	.....	.....	916	115	.....	.....	.....
12,662	346	.....	6,361	8,574	1,934	.....	.....

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)

	PRODUCTS OF AGRICULTURE — (Concluded)					
	Rye	Barley	Barley malt	Flour	Flaxseed	Cotton
May.....	3,266	360	411	.....	19,382	.....
June.....	15,627	.....	.....	1,748	15,085	.....
July.....	5,804	.....	1,390	5,800	10,489	.....
August.....	.....	192	.....	4,955	3,583	70
September.....	.....	801	760	500	13,688	.....
October.....	9,431	.....	2,389	1,730	11,005	.....
November.....	15,444	1,174	420	.....	4,879	.....
Total for season.....	49,572	2,527	5,370	14,733	78,111	70

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.) of

May.....	3,266	360	411	.....	.....	.....
June.....	15,627	.....	.....	1,748	.....	.....
July.....	5,804	.....	1,390	5,800	.....	.....
August.....	.....	192	.....	4,955	.....	.....
September.....	.....	801	760	500	.....	.....
October.....	9,431	.....	2,389	1,730	.....	.....
November.....	15,444	1,174	420	.....	.....	.....
Total for season.....	49,572	2,527	5,370	14,733	.....	.....

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000

May.....	.....	.....	.....	.....	19,382	.....
June.....	.....	.....	.....	.....	15,085	.....
July.....	.....	.....	.....	.....	10,489	.....
August.....	.....	.....	.....	.....	3,583	70
September.....	.....	.....	.....	.....	13,688	.....
October.....	.....	.....	.....	.....	11,005	.....
November.....	.....	.....	.....	.....	4,879	.....
Total for season.....	.....	.....	.....	.....	78,111	70

— (Continued)

of through freight carried during the season of 1920 — (Concluded)

Fruits and vege- tables	All other	PRODUCTS OF FOREST		PRODUCTS OF THE GROUND			Total
		Lumber	All other	Sand, stone, gravel	Clay	All other	
336	200			2,016	865	250	32,294
		981	120				47,868
			876	1,657	538		67,047
		634		700	1,421		37,107
		400	567	1,100	1,441		43,655
				2,507	1,572		54,819
				1,622	1,241		45,155
336	200	2,015	1,563	9,602	7,078	250	327,945

— (Continued)

through freight, eastbound, during the season of 1920 — (Concluded)

							4,757
		981	120				22,889
			876				45,487
		634					28,347
		400	567				24,213
							38,933
							36,172
		2,015	1,563				200,798

— (Continued)

lbs.) of through freight, westbound, during the season of 1920—(Concl'd

336	200			2,016	865	250	27,537
							24,979
				1,657	538		21,560
				700	1,421		8,760
				1,100	1,441		19,442
				2,507	1,572		15,886
				1,622	1,241		8,983
336	200			9,602	7,078	250	127,147

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of

	MANUFACTURED		
	Iron, pig and bloom	Other metals	Petroleum and other oil
May.....		888	6,020
June.....		702	9,416
July.....		1,332	9,799
August.....	800	284	10,658
September.....	240	175	10,119
October.....		274	10,991
November.....			5,758
Total for season.....	1,040	3,655	62,761

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of

May.....			
June.....		294	
July.....		710	
August.....	800		
September.....	240		
October.....			
November.....			
Total for season.....	1,040	1,004	

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of

May.....		888	6,020
June.....		408	9,416
July.....		622	9,799
August.....		284	10,658
September.....		175	10,119
October.....		274	10,991
November.....			5,758
Total for season.....		2,651	62,761

— (Continued)

2,000 lbs.) of local freight carried during the season of 1920

PRODUCTS

Cement and lime	Brick	Salt	Sugar	Implements, vehicles and parts	Machinery and tools	Paper and paper products
.....	474	1,475	2,134	80	550	.....
.....	.....	1,910	2,951	.....	1,700	84
960	.....	3,632	4,160	.....	1,030	90
.....	800	5,375	555	.....	824	.....
.....	.....	7,408	.....	.....	1,018	.....
.....	.....	1,760	.....	.....	722	.....
.....	.....	1,250	.....	.....	1,073	.....
960	1,274	22,810	9,800	80	6,917	174

— (Continued)

2,000 lbs.) of local freight, eastbound, during the season of 1920

.....	474	1,475	.....	80	550	.....
.....	.....	1,910	.....	.....	925	.....
.....	.....	3,632	.....	.....	490	90
.....	800	5,375	.....	.....	515	.....
.....	.....	7,408	.....	.....	690	.....
.....	.....	1,760	.....	.....	602	.....
.....	.....	1,250	.....	.....	725	.....
.....	1,274	22,810	.....	80	4,497	90

— (Continued)

2,000 lbs.) of local freight, westbound, during the season of 1920

.....	.....	.....	2,134	.....	.....	.....
.....	.....	.....	2,951	.....	775	84
960	.....	.....	4,160	.....	540	.....
.....	.....	.....	555	.....	309	.....
.....	.....	.....	.....	.....	328	.....
.....	.....	.....	.....	.....	120	.....
.....	.....	.....	.....	.....	348	.....
.....	.....	.....	9,800	.....	2,420	84

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)

	MANUFACTURED PRODUCTS — (Concluded)		
	Textiles, boots, shoes, etc.	Chemicals, drugs, etc.	All other
May.....		25	895
June.....		2,866	616
July.....		7,105	649
August.....		6,165	3,381
September.....		4,945	805
October.....		2,380	681
November.....	150	3,595	225
Total for season.....	150	27,081	7,252

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)

May.....			
June.....		2,866	200
July.....		6,605	109
August.....		6,165	174
September.....		4,945	461
October.....		2,380	175
November.....		3,595	70
Total for season.....		26,556	1,189

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)

May.....		25	895
June.....			416
July.....		500	540
August.....			3,207
September.....			344
October.....			506
November.....	150		155
Total for season.....	150	525	6,063

— (Continued)

of local freight carried during the season of 1920 — (Continued)

MISCELLANEOUS PRODUCTS			PRODUCTS OF AGRICULTURE				
Ice	Mer- chandise N. O. S.	All other	Flour	Hay	Cotton	Fruits and vege- tables	All other
.....	17	481	.....	.....	.....	.....	285
.....	380	1,005	.....	69	.....	.....	.....
2,430	602	315	278	665	.....	.....	.....
1,950	450	262	.....	100	60	.....	.....
3,200	1,383	2,498	.....	.....	.....	.....	.....
.....	410	125	.....	.....	.....	.....	.....
.....	249	42	.....	460	.....	630	.....
7,580	3,491	4,728	278	1,294	60	630	285

— (Continued)

of local freight, eastbound, during the season of 1920 — (Continued)

.....	.....	.....	.....	69	.....	.....	.....
.....	162	.....	278	665	.....	.....	.....
.....	76	.....	.....	100	.....	.....	.....
.....	243	.....	.....	.....	.....	.....	.....
.....	105	125	.....	.....	.....	.....	.....
.....	25	.....	.....	460	.....	630	.....
.....	611	125	278	1,294	.....	630	.....

— (Continued)

of local freight, westbound, during the season of 1920 — (Continued)

.....	17	481	.....	.....	.....	.....	285
.....	380	1,005	.....	.....	.....	.....	.....
2,430	440	315	.....	.....	.....	.....	.....
1,950	374	262	.....	.....	60	.....	.....
3,200	1,140	2,498	.....	.....	.....	.....	.....
.....	305	.....	.....	.....	.....	.....	.....
.....	224	42	.....	.....	.....	.....	.....
7,580	2,880	4,603	.....	.....	60	.....	285

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)

	PRODUCTS OF FOREST		
	Lumber	Wood pulp	All other
May.....	1,266	150	.....
June.....	3,484	150	.....
July.....	4,550	.....	100
August.....	5,736	.....	.....
September.....	7,919	360	202
October.....	5,470	.....	.....
November.....	3,068	.....	348
Total for season.....	31,493	660	650

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)

May.....	1,266	.....	.....
June.....	3,484	.....	.....
July.....	4,550	.....	100
August.....	5,736	.....	.....
September.....	7,753	.....	202
October.....	5,470	.....	.....
November.....	3,068	.....	348
Total for season.....	31,327	.....	650

ERIE DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)

May.....	.....	150	.....
June.....	.....	150	.....
July.....	.....	.....	.....
August.....	.....	.....	.....
September.....	166	360	.....
October.....	.....	.....	.....
November.....	.....	.....	.....
Total for season.....	166	660	.....

— (Concluded)

of local freight carried during the season of 1920 — (Concluded)

PRODUCTS OF THE GROUND					Total
Anthracite coal	Bituminous coal	Sand, stone, gravel	Clay	All other	
1,138		26,786	703		43,367
7,600	2,262	39,426	2,238		76,859
6,945	658	55,692		2,001	102,993
5,435	1,013	44,742	1,579	200	90,369
6,368		55,730	560	550	103,480
5,791	5	47,133	232		75,974
3,980		48,522		884	70,234
37,257	3,938	318,031	5,312	3,635	563,276

— (Concluded)

of local freight, eastbound, during the season of 1920 — (Concluded)

		3,350			7,195
7,600	1,310	6,026			24,684
6,000	658	5,700		2,001	31,750
4,800	901	5,071		200	30,713
6,000		3,829		550	32,321
4,800		2,200			17,617
3,600		4,472		884	19,127
32,800	2,869	30,648		3,635	163,407

— (Concluded)

of local freight, westbound, during the season of 1920 — (Concluded)

1,138		23,436	703		36,172
	952	33,400	2,238		52,175
945		49,992			71,243
635	112	39,671	1,579		59,656
368		51,901	560		71,159
991	5	44,933	232		58,357
380		44,050			51,107
4,457	1,069	287,383	5,312		399,869

CHAMPLAIN

ANNUAL STATEMENT showing the total quantity (in tons)

	MANUFACTURED			
	Iron or steel articles	Petroleum and other oil	Cement and lime	Brick
May.....		618	1,223	195
June.....	3	3,693	1,532	15
July.....	12	6,067	1,222	
August.....		2,975	2,140	
September.....		8,400	571	
October.....		6,720	612	
November.....		1,925		
Total for season.....	15	30,398	7,300	210

CHAMPLAIN DIVISION

ANNUAL STATEMENT showing the total quantity (in tons)

May.....		1,223	
June.....		1,532	
July.....		1,222	
August.....		1,226	
September.....		153	
October.....		612	
November.....	350		
Total for season.....	350	5,968	

CHAMPLAIN DIVISION

ANNUAL STATEMENT showing the total quantity (in tons)

May.....		618	195
June.....	3	3,693	15
July.....	12	6,067	
August.....		2,975	914
September.....		8,400	418
October.....		6,720	
November.....		1,575	
Total for season.....	15	30,048	1,332

DIVISION

of 2,000 lbs.) carried during the season of 1920

PRODUCTS			Products of animals	Miscel- laneous products	PRODUCTS OF AGRICULTURE		
Paper and paper products	Fertilisers	All other			Hay	Flaxseed	Fruits and vege- tables
806		4,066			1,405	502	
1,220				3	1,116	2,852	
746		5,377			2,284		
		7,660			157		
	1,350	3,836	4		585		
	300	4,549			729		
		336			1,020		2,056
2,772	1,650	25,824	4	3	7,296	3,354	2,056

— (Continued)

of 2,000 lbs.) of eastbound freight during the season of 1920

806					1,405		
1,220					1,116		
746		200			2,284		
					157		
		236	4		585		
					729		
					1,020		2,056
2,772		436	4		7,296		2,056

— (Continued)

of 2,000 lbs.) of westbound freight during the season of 1920

		4,066				502	
				3		2,852	
		5,177					
		7,660					
	1,350	3,600					
	300	4,549					
		336					
	1,650	25,388		3		3,354	

CHAMPLAIN DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of

	PRODUCTS OF FOREST			
	Lumber	Wood pulp	Pulpwood	All other
May.....	10,191	253	.....	.....
June.....	23,851	1,626	4,740	108
July.....	20,476	240	7,632	246
August.....	18,129	1,319	18,852	246
September.....	19,562	1,345	13,781	246
October.....	20,894	1,249	18,563	.....
November.....	16,369	986	11,404	.....
Total for season.....	129,472	7,018	74,972	846

CHAMPLAIN DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)

May.....	9,615	253	.....	.....
June.....	23,851	1,626	4,740	108
July.....	20,476	240	7,632	246
August.....	18,129	1,319	18,852	246
September.....	19,562	1,017	13,781	246
October.....	20,894	1,249	18,563	.....
November.....	16,369	986	9,568	.....
Total for season.....	128,896	6,690	73,136	846

CHAMPLAIN DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)

May.....	576	.....	.....	.....
June.....	.....	.....	.....	.....
July.....	.....	.....	.....	.....
August.....	.....	.....	.....	.....
September.....	.....	328	.....	.....
October.....	.....	.....	.....	.....
November.....	.....	.....	1,836	.....
Total for season.....	576	328	1,836	.....

— (Concluded)

2,000 lbs.) carried during the season of 1920 — (Concluded)

PRODUCTS OF THE GROUND						Total
Anthracite coal	Bituminous coal	Iron ore	Sand, stone, gravel	Clay	All other	
3,116	2,035	10,012	1,664	1,487	750	38,323
4,288	582	14,784	3,586	1,365	542	65,906
3,834	215	24,304	6,834	3,518	.....	83,007
1,180	478	22,420	2,964	638	.....	79,158
2,587	480	29,296	4,864	2,616	255	89,778
420	248	22,360	4,158	798	.....	81,600
1,004	.....	8,952	2,675	1,099	.....	47,826
16,429	4,038	132,128	26,745	11,521	1,547	485,598

— (Continued)

of eastbound freight during the season of 1920 — (Concluded)

.....	.....	9,900	600	.....	.....	23,802
.....	.....	14,784	1,675	.....	542	51,194
.....	.....	24,304	4,110	.....	.....	61,460
.....	.....	22,420	2,534	.....	.....	64,883
.....	.....	29,296	3,156	.....	255	68,291
.....	.....	22,360	2,160	.....	.....	66,567
.....	.....	8,952	2,675	.....	.....	41,976
.....	.....	132,016	16,910	.....	797	378,173

— (Continued)

of westbound freight during the season of 1920 — (Concluded)

3,116	2,035	112	1,064	1,487	750	14,521
4,288	582	.....	1,911	1,365	.....	14,712
3,834	215	.....	2,724	3,518	.....	21,547
1,180	478	.....	430	638	.....	14,275
2,587	480	.....	1,708	2,616	.....	21,487
420	248	.....	1,998	798	.....	15,033
1,004	.....	.....	.....	1,099	.....	5,850
16,429	4,038	112	9,835	11,521	750	107,425

CHAMPLAIN DIVISION

ANNUAL STATEMENT *showing the total quantity (in tons of*

	MANUFACTURED		
	Iron or steel articles	Petroleum and other oil	Cement and lime
May.....		618	
June.....	3	3,080	
July.....	12	5,472	
August.....		2,380	
September.....		6,860	
October.....		3,780	168
November.....		991	
Total for season.....	15	23,181	168

CHAMPLAIN DIVISION

ANNUAL STATEMENT *showing the total quantity (in tons of*

May.....			
June.....			
July.....			
August.....			
September.....			
October.....			
November.....			
Total for season.....			

CHAMPLAIN DIVISION

ANNUAL STATEMENT *showing the total quantity (in tons of*

May.....		618	
June.....	3	3,080	
July.....	12	5,472	
August.....		2,380	
September.....		6,860	168
October.....		3,780	
November.....		991	
Total for season.....	15	23,181	168

— (Continued)

2,000 lbs.) of through freight carried during the season of 1920

Products				Products of animals	Miscellaneous products	PRODUCTS OF AGRICULTURE	
Brick	Paper and paper products	Fertilizers	All other			Hay	Flaxseed
195	528	.....	3,730	.....	.....	1,278	502
.....	681	.....	.....	.....	3	1,026	2,852
.....	127	.....	3,626	.....	.....	2,284	.....
.....	.....	.....	4,081	.....	.....	157	.....
.....	.....	1,350	3,095	4	.....	515	.....
.....	.....	300	4,045	.....	.....	729	.....
.....	.....	.....	.....	.....	.....	858	.....
195	1,336	1,650	18,577	4	3	6,847	3,354

— (Continued)

2,000 lbs.) of through freight, eastbound, during the season of 1920

.....	528	.....	.....	.....	.....	1,278	.....
.....	681	.....	.....	.....	.....	1,026	.....
.....	127	.....	.....	.....	.....	2,284	.....
.....	.....	.....	.....	.....	.....	157	.....
.....	.....	.....	.....	4	.....	515	.....
.....	.....	.....	.....	.....	.....	729	.....
.....	.....	.....	.....	.....	.....	858	.....
.....	1,336	.....	.....	4	.....	6,847	.....

— (Continued)

2,000 lbs.) of through freight, westbound, during the season of 1920

195	.....	.....	3,730	.....	.....	.....	502
.....	.....	.....	.....	.....	3	.....	2,852
.....	.....	.....	3,626	.....	.....	.....	.....
.....	.....	.....	4,081	.....	.....	.....	.....
.....	.....	1,350	3,095	.....	.....	.....	.....
.....	.....	300	4,045	.....	.....	.....	.....
.....
195	.....	1,650	18,577	.....	3	.....	3,354

CHAMPLAIN DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)

	PRODUCTS OF FOREST	
	Lumber	Wood pulp
May.....	5,966	253
June.....	17,113	1,085
July.....	12,761	240
August.....	11,980	1,319
September.....	11,127	1,017
October.....	14,018	1,249
November.....	10,508	986
Total for season.....	83,473	6,149

CHAMPLAIN DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.) or

May.....	5,390	253
June.....	17,113	1,085
July.....	12,761	240
August.....	11,980	1,319
September.....	11,127	1,017
October.....	14,018	1,249
November.....	10,508	986
Total for season.....	82,897	6,149

CHAMPLAIN DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)

May.....	576	.....
June.....	.....	.....
July.....	.....	.....
August.....	.....	.....
September.....	.....	.....
October.....	.....	.....
November.....	.....	.....
Total for season.....	576	.....

— (Concluded)

of through freight carried during the season of 1920 — (Concluded)

PRODUCTS OF THE GROUND						Total
Anthracite coal	Bituminous coal	Iron ore	Sand, stone, gravel	Clay	All other	
2,352	2,035	10,012	26	1,100	.....	28,595
3,681	582	14,784	.....	1,365	542	46,797
3,137	215	24,304	515	3,255	.....	55,948
1,021	366	22,420	.....	134	.....	43,858
2,587	480	29,296	1,400	1,556	255	59,710
.....	248	22,360	1,118	798	.....	48,645
442	.....	8,952	.....	1,099	.....	23,836
13,220	3,926	132,128	3,059	9,307	797	307,389

— (Continued)

through freight, eastbound, during the season of 1920 — (Concluded)

.....	.....	9,900	.....	.....	.....	17,349
.....	.....	14,784	.....	.....	542	35,231
.....	.....	24,304	.....	.....	.....	39,716
.....	.....	22,420	.....	.....	.....	35,876
.....	.....	29,296	.....	.....	255	42,214
.....	.....	22,360	.....	.....	.....	38,356
.....	.....	8,952	.....	.....	.....	21,304
.....	.....	132,016	.....	.....	797	230,046

— (Continued)

through freight, westbound, during the season of 1920 — (Concluded)

2,352	2,035	112	26	1,100	.....	11,246
3,681	582	.....	.....	1,365	.....	11,566
3,137	215	.....	515	3,255	.....	16,232
1,021	366	.....	.....	134	.....	7,982
2,587	480	.....	1,400	1,556	.....	17,496
.....	248	.....	1,118	798	.....	10,289
442	.....	.....	.....	1,099	.....	2,532
13,220	3,926	112	3,059	9,307	.....	77,343

CHAMPLAIN DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of

	MANUFACTURED PRODUCTS					PRODUCTS OF AGRICULTURE	
	Petro- leum and other oil	Cement and lime	Brick	Paper and paper products	All other	Hay	Fruits and vege- tables
May		1,223		278	336	127	
June	613	1,532	15	539		90	
July	595	1,222		619	1,751		
August	595	2,140			3,579		
September	1,540	403			741	70	
October	2,940	612			504		
November	934				336	162	2,056
Total for season....	7,217	7,132	15	1,436	7,247	449	2,056

CHAMPLAIN DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of

May		1,223		278		127	
June		1,532		539		90	
July		1,222		619	200		
August		1,226					
September		153			236	70	
October		612					
November	350					162	2,056
Total for season....	350	5,968		1,436	436	449	2,056

CHAMPLAIN DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of

May					336		
June	613		15				
July	595				1,551		
August	595	914			3,579		
September	1,540	250			505		
October	2,940				504		
November	584				336		
Total for season....	6,867	1,164	15		6,811		

— (Concluded)

2,000 lbs.) of local freight carried during the season of 1920

PRODUCTS OF FOREST				PRODUCTS OF THE GROUND					Total
Lumber	Wood pulp	Pulp-wood	All other	Anthracite coal	Bituminous coal	Sand, stone, gravel	Clay	All other	
4,225	.....	.....	.....	764	.....	1,638	387	750	9,728
6,738	541	4,740	108	607	.....	3,586	.....	.....	19,109
7,715	.....	7,632	246	697	.....	6,319	263	.....	27,059
6,149	.....	18,852	246	159	112	2,964	504	.....	35,300
8,435	328	13,781	246	.....	.....	3,464	1,060	.....	30,068
6,876	.....	18,563	.....	420	.....	3,040	.....	.....	32,955
5,861	.....	11,404	.....	562	.....	2,675	.....	.....	23,990
45,999	869	74,972	846	3,209	112	23,686	2,214	750	178,209

— (Concluded)

2,000 lbs.) of local freight, eastbound, during the season of 1920

4,225	.....	.....	.....	.....	.....	600	.....	.....	6,453
6,738	541	4,740	108	.....	.....	1,675	.....	.....	15,963
7,715	.....	7,632	246	.....	.....	4,110	.....	.....	21,744
6,149	.....	18,852	246	.....	.....	2,534	.....	.....	29,007
8,435	.....	13,781	246	.....	.....	3,156	.....	.....	26,077
6,876	.....	18,563	.....	.....	.....	2,160	.....	.....	28,211
5,861	.....	9,568	.....	.....	.....	2,675	.....	.....	20,672
45,999	541	73,136	846	.....	.....	16,910	.....	.....	148,127

— (Concluded)

2,000 lbs.) of local freight, westbound, during the season of 1920

.....	.....	.....	.....	764	.....	1,038	387	750	3,275
.....	.....	.....	.....	607	.....	1,911	.....	.....	3,146
.....	.....	.....	.....	697	.....	2,209	263	.....	5,315
.....	.....	.....	.....	159	112	430	504	.....	6,293
.....	328	.....	.....	.....	.....	308	1,060	.....	3,991
.....	.....	.....	.....	420	.....	880	.....	.....	4,744
.....	.....	1,836	.....	562	.....	.....	.....	.....	3,318
.....	328	1,836	.....	3,209	112	6,776	2,214	750	30,082

CAYUGA AND SENECA DIVISION

ANNUAL STATEMENT *showing the total quantity (in tons of 2,000 lbs.)
carried during the season of 1920*

	MANUFACTURED PRODUCTS			Products of agri- culture Fruits and vege- tables	Prod- ucts of the ground Sand, stone, gravel	Total
	Petro- leum and other oil	Cement and lime	Salt			
May.....		1,385				1,385
June.....		2,135	1,441		1,370	4,946
July.....		7,255	3,343		2,995	13,593
August.....		3,030	3,052		2,280	8,362
September.....		1,980	2,899		2,752	7,631
October.....		235		29	465	729
November.....	290					290
Total for season.....	290	16,020	10,735	29	9,862	36,936

CAYUGA AND SENECA DIVISION — (Continued)

ANNUAL STATEMENT *showing the total quantity (in tons of 2,000 lbs.)
of eastbound freight during the season of 1920*

May.....		1,385				1,385
June.....		2,135	1,441		1,370	4,946
July.....		7,255	3,343		2,995	13,593
August.....		3,030	3,052		2,280	8,362
September.....		1,980	2,899		2,752	7,631
October.....		235		29	465	729
November.....	290					290
Total for season.....	290	16,020	10,735	29	9,862	36,936

CAYUGA AND SENECA DIVISION — (Continued)

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)
of through freight carried during the season of 1920

	MANUFACTURED PRODUCTS			Total
	Petroleum and other oil	Cement and lime	Salt	
May.....		1,285		1,285
June.....			707	707
July.....			963	963
August.....			1,273	1,273
September.....			1,258	1,258
October.....				
November.....	90			90
Total for season.....	90	1,285	4,201	5,576

CAYUGA AND SENECA DIVISION — (Continued)

ANNUAL STATEMENT showing total quantity (in tons) of through freight,
eastbound, during the season of 1920

May.....		1,285		1,285
June.....			707	707
July.....			963	963
August.....			1,273	1,273
September.....			1,258	1,258
October.....				
November.....	90			90
Total for season.....	90	1,285	4,201	5,576

CAYUGA AND SENECA DIVISION — (Continued)

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)
of local freight carried during the season of 1920

	MANUFACTURED PRODUCTS			Products of agri- culture Fruits and vege- tables	Products of the ground Sand, stone, gravel	Total
	Petro- leum and other oil	Cement and lime	Salt			
May.....		100				100
June.....		2,135	734		1,370	4,239
July.....		7,255	2,380		2,995	12,630
August.....		3,030	1,779		2,280	7,089
September.....		1,980	1,641		2,752	6,373
October.....		235		29	465	729
November.....	200					200
Total for season.....	200	14,735	6,534	29	9,862	31,360

CAYUGA AND SENECA DIVISION — (Concluded)

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)
of local freight, eastbound, during the season of 1920

May.....		100				100
June.....		2,135	734		1,370	4,239
July.....		7,255	2,380		2,995	12,630
August.....		3,030	1,779		2,280	7,089
September.....		1,980	1,641		2,752	6,373
October.....		235		29	465	729
November.....	200					200
Total for season.....	200	14,735	6,534	29	9,862	31,360

OSWEGO DIVISION

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)
carried during the season of 1920

	Products of animals	Products of forest.— Lumber	Products of the ground.— Sand, stone, gravel	Total
July.....			1,040	1,040
August.....		241	700	941
September.....			1,893	1,893
November.....	85			85
Total for season.....	85	241	3,633	3,959

OSWEGO DIVISION — (Continued)

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)
of eastbound freight, during the season of 1920

July.....			1,040	1,040
August.....		241	700	941
September.....			1,443	1,443
November.....	85			85
Total for season.....	85	241	3,183	3,509

OSWEGO DIVISION — (Continued)

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)
of westbound freight, during the season of 1920

July.....			450	450
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OSWEGO DIVISION — (Continued)

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)
of through freight carried during the season of 1920

	Products of animals	Products of forest.— Lumber	Products of the ground.— Sand, stone, gravel	Total
July.....			1,040	1,040
August.....		241		241
September.....			993	993
November.....	85			85
Total for season.....	85	241	2,033	2,359

OSWEGO DIVISION — (Continued)

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)
of through freight, eastbound, during the season of 1920

July.....			1,040	1,040
August.....		241		241
September.....			993	993
November.....	85			85
Total for season.....	85	241	2,033	2,359

OSWEGO DIVISION — (Continued)

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)
of local freight carried during the season of 1920

	Products of the ground.— Sand, stone, gravel	Total
August	700	700
September	900	900
Total for season	1,600	1,600

OSWEGO DIVISION — (Continued)

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)
of local freight, eastbound, during the season of 1920

August	700	700
September	450	450
Total for season	1,150	1,150

OSWEGO DIVISION — (Concluded)

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)
of local freight, westbound, during the season of 1920

September	450	450
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BLACK RIVER DIVISION

ANNUAL STATEMENT *showing the total quantity (in tons of 2,000 lbs.)
carried during the season of 1920*

	PRODUCTS OF AGRICULTURE		Products of the ground.— Sand, stone, gravel	Total
	Hay	Fruits and vegetables		
June.....	40		1,400	1,440
July.....			400	400
August.....			600	600
September.....			200	200
October.....			400	400
November.....		480	200	680
Total for season.....	40	480	3,200	3,720

BLACK RIVER DIVISION — (Continued)

ANNUAL STATEMENT *showing the total quantity (in tons of 2,000 lbs.)
of eastbound freight, during the season of 1920*

June.....			1,400	1,400
July.....			400	400
August.....			600	600
September.....			200	200
October.....			400	400
November.....		480	200	680
Total for season.....		480	3,200	3,680

BLACK RIVER DIVISION — (Continued)

ANNUAL STATEMENT *showing the total quantity (in tons of 2,000 lbs.)
of westbound freight, during the season of 1920*

June.....	40			40
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BLACK RIVER DIVISION — (Continued)

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)
of local freight, carried during the season of 1920

	PRODUCTS OF AGRICULTURE			Products of the ground.— Sand, stone, gravel	Total
	Hay	Cotton	Fruits and vegetables		
June.....	40			1,400	1,440
July.....				400	400
August.....				600	600
September.....				200	200
October.....				400	400
November.....			480	200	680
Total for season..	40		480	3,200	3,720

BLACK RIVER DIVISION — (Continued)

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)
of local freight, eastbound, during the season of 1920

June.....				1,400	1,400
July.....				400	400
August.....				600	600
September.....				200	200
October.....				400	400
November.....		480		200	680
Total for season..		480		3,200	3,680

BLACK RIVER DIVISION — (Concluded)

ANNUAL STATEMENT showing the total quantity (in tons of 2,000 lbs.)
of local freight, westbound, during the season of 1920

June.....	40				40
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FORWARDED — Total tonnage, season of 1920

	MANUFACTURED PRODUCTS						
	Iron, pig and bloom	Iron or steel articles	Other metals	Petroleum and other oil	Cement and lime	Brick	Salt
Albany.....	10	83,278	.....	.....	.....
Amsterdam.....	600
Baldwinsville.....
Beacon.....
Boonville.....
Brewerton.....
Brooklyn.....
Buffalo.....	59,353	3,337	.....	.....	.....	.....	520
Burlington, Vt.....
Canada.....
Canastota.....	728	.....	.....
Catskill.....
Coveville.....
Crescent.....	1,274	.....
Dunham's Basin.....
Durhamville.....
East Varick.....
Fonda.....
Fort Edward.....
Fort Plain.....
Fulton.....

Geneva.....	90	5,968	15	4,473	17,060
Glens Falls.....	101	960	604	2,081	
Hastings.....					
Hudson.....					
Hudson Falls.....					
Hulberton.....					
Ludlowville.....					
Lyons.....					
Mechanicville.....					
New York City.....	15				
Northumberland.....					
Oak Orchard.....					
Oswego.....					
Port Byron.....					
Port Henry.....					
Portland Point.....		16,020			
Poughkeepsie.....					
Remington.....					
Rhinecliff.....					
Rochester.....					
Rome.....	994				
Rondout.....					
Schenectady.....					
Schuylerville.....					
Scotia.....					
Seneca Falls.....	200				
Smith's Basin.....					
Sprakers.....					
Sylvan Beach.....					

FORWARDED — *Total tonnage, season of 1920 — (Continued)*

	MANUFACTURED PRODUCTS						
	Iron, pig and bloom	Iron or steel articles	Other metals	Petroleum and other oil	Cement and lime	Brick	Salt
Syracuse.....	5,150
Tonawanda.....	246	1,750	.....	.....	.....	.....	.....
Troy.....	1,136	9,549	.....	195	.....
Utica.....
Vischer's Ferry.....
Waterford.....
Waterloo.....
Watkins.....
Whitehall.....	350	.....	.....	4,201
Wilbur's Basin.....
Yonkers.....
Total.....	59,599	5,102	3,865	94,862	24,280	1,484	34,065

Forwarded — Total tonnage, season of 1920 — (Continued)

MANUFACTURED PRODUCTS — (Continued)						
	Sugar	Implements, vehicles and parts	Machinery and tools	Paper and paper products	Textiles, boots, shoes, etc.	Oil meal and cake
Albany.....				90		
Amsterdam.....						
Baldwinsville.....						
Beacon.....						
Boonville.....						
Brewerton.....						
Brooklyn.....						
Buffalo.....	250	80				850
Burlington, Vt.....				1,336		
Canada.....						
Canastota.....						
Catskill.....						
Coveville.....						
Crescent.....						
Dunham's Basin.....						
Durhamville.....						
East Varick.....						
Fonda.....						
Fort Edward.....						
Fort Plain.....						
Fulton.....						

Forwarded — Total tonnage, season of 1920 — (Continued)

	MANUFACTURED PRODUCTS — (Continued)					
	Sugar	Implements, vehicles and parts	Machinery and tools	Paper and paper products	Textiles, books, shoes, etc.	Oil meal and cake
Geneva.....
Glens Falls.....
Hastings.....
Hudson.....
Hudson Falls.....	1,436	.....	.....
Hulberton.....
Ludlowville.....
Lyons.....
Mechanicville.....
New York City.....	17,162	.....	1,904	84	150	1,650
Northumberland.....
Oak Orchard.....
Oswego.....
Port Byron.....
Port Henry.....
Portland Point.....
Poughkeepsie.....
Remington.....
Rhinecliff.....
Rochester.....	200	.....	.....	.....
Rome.....

Rondout.....	.....	.....	.....	.....	.....	.....
Schenectady.....	.....	.....	.....	.....	.....	.....
Schuylerville.....	.....	.....	.....	.....	.....	.....
Scotia.....	.....	.....	.....	.....	.....	.....
Seneca Falls.....	.....	.....	.....	.....	.....	.....
Smith's Basin.....	.....	.....	.....	.....	.....	.....
Sprakers.....	.....	.....	.....	.....	.....	.....
Sylvan Beach.....	.....	.....	.....	.....	.....	.....
Syracuse.....	.....	.....	.....	.....	.....	.....
Tonawanda.....	.....	.....	.....	.....	.....	.....
Troy.....	920	.....	316	.....	346	.....
Utica.....	.....	.....	.....	.....	.....	.....
Vischer's Ferry.....	.....	.....	.....	.....	.....	.....
Waterford.....	.....	.....	.....	.....	.....	.....
Waterloo.....	.....	.....	.....	.....	.....	.....
Watkins.....	.....	.....	.....	.....	.....	.....
Whitehall.....	.....	.....	10	.....	.....	.....
Wilbur's Basin.....	.....	.....	.....	.....	.....	.....
Yonkers.....	4,380	.....	.....	.....	.....	.....
Total.....	22,712	80	6,917	3,292	150	850
						1,650

Forwarded — Total tonnage, season of 1920 — (Continued)

	MANUFACTURED PRODUCTS — (Concluded)		Products of animals	MISCELLANEOUS PRODUCTS		
	Chemicals, drugs, etc.	All other		Ice	Merchandise, N. O. S.	All other
Albany.....		10			508	
Amsterdam.....						
Baldwinsville.....						
Beacon.....		880			14	
Boonville.....						
Brewerton.....				7,580		
Brooklyn.....		554				
Buffalo.....						
Burlington, Vt.....						
Canada.....			4			
Canastota.....						
Catskill.....						
Coveville.....						
Crescent.....						
Dunham's Basin.....						
Durhamville.....						
East Varick.....						
Fonda.....						
Fort Edward.....		200				
Fort Plain.....						
Fulton.....						

Forwarded — Total tonnage, season of 1920 — (Continued)

	MANUFACTURED PRODUCTS — (Concluded)		Products of animals	MISCELLANEOUS PRODUCTS		
	Chemicals, drugs, etc.	All other		Ice	Merchandise, N. O. S.	All other
Syracuse.....	27,031	200	.....	.....	.....	.....
Tonawanda.....
Troy.....	5,385	.....	.....	3,347	1,871
Utica.....
Vischer's Ferry.....
Waterford.....	232	.....	.....	.....	.....
Waterloo.....
Watkins.....
Whitehall.....
Wilbur's Basin.....
Yonkers.....	1	.....
Total.....	27,081	39,437	89	7,580	12,247	6,665

Forwarded — Total tonnage, season of 1920 — (Continued)

PRODUCTS OF AGRICULTURE							
	Wheat	Oats	Rye	Barley	Barley malt	Flour	Hay
Albany	715
Amsterdam
Baldwinsville
Beacon
Boonville
Brewerton
Brooklyn
Buffalo	58,111	1,184	48,609	2,878	4,218	15,011	.....
Burlington, Vt.
Canada	6,847
Canastota
Catskill
Coveville	82
Crescent
Dunham's Basin
Durhamville
East Varick
Fonda	325
Fort Edward
Fort Plain	65
Fulton

Forwarded — Total tonnage, season of 1920 — (Continued)

	PRODUCTS OF AGRICULTURE						
	Wheat	Oats	Rye	Barley	Barley malt	Flour	Hay
Geneva.....
Glens Falls.....
Hastings.....
Hudson.....
Hudson Falls.....
Hulberton.....
Ludlowville.....
Lyons.....
Mechanicville.....
New York City.....
Northumberland.....
Oak Orchard.....
Oswego.....
Port Byron.....
Port Henry.....
Portland Point.....
Poughkeepsie.....
Remington.....
Rhinecliff.....
Rochester.....
Rome.....
							40

Forwarded — Total tonnage, season of 1920 — (Continued)

	PRODUCTS OF AGRICULTURE — (Continued)				PRODUCTS OF FOREST		
	Flaxseed	Cotton	Fruits and vegetables	All other	Lumber	Wood pulp	Pulpwood
Albany.....
Amsterdam.....
Baldwinsville.....	630	.....	.....	.....	.....
Beacon.....
Boonville.....	480	.....	.....	.....	.....
Brewerton.....
Brooklyn.....
Buffalo.....	12,600	.....	.....
Burlington, Vt.....	7,840	.....	.....
Canada.....	75,591	6,690	73,136
Canastota.....
Catskill.....
Coveville.....	113	.....	.....
Crescent.....	108
Dunham's Basin.....	409	.....	.....	.....	.....
Durhamville.....
East Varick.....	29	.....	50	.....	.....
Fonda.....
Fort Edward.....	420	.....	.....	.....	.....
Fort Plain.....	1,836
Fulton.....
							100

Forwarded — Total tonnage, season of 1920 — (Continued)

	PRODUCTS OF AGRICULTURE — (Concluded)				PRODUCTS OF FOREST			
	Flaxseed	Cotton	Fruits and vegetables	All other	Lumber	Wood pulp	Pulpwood	All other
Syracuse.....	50	.....	.....	.....
Tonawanda.....	20,642	.....	.....	1,563
Troy.....	26,022	70	336	485	42	150	.....	.....
Utica.....
Vischer's Ferry.....
Waterford.....
Waterloo.....
Watkins.....
Whitehall.....
Wilbur's Basin.....
Yonkers.....
Total.....	81,465	130	3,531	485	163,221	7,678	74,972	3,059

Forwarded — Total tonnage, season of 1920 — (Continued)

	PRODUCTS OF THE GROUND						Total
	Anthracite coal	Bituminous coal	Iron ore	Sand, stone, gravel	Clay	All other	
Albany.....	190	112	.....	.....	.....	.....	84,298
Amsterdam.....	715
Baldwinsville.....	1,230
Beacon.....	894
Boonville.....	3,200	.....	.....	3,680
Brewerton.....	7,580
Brooklyn.....	554
Buffalo.....	1,669	.....	.....	.....	.....	208,670
Burlington, Vt.....	7,840
Canada.....	797	164,401
Canastota.....	1,380	.....	.....	.....	.....	.....	1,380
Catskill.....	728
Coveville.....	303
Crescent.....	1,274
Dunham's Basin.....	409
Durhamville.....	25	.....	.....	.....	.....	.....	25
East Varick.....	79
Fonda.....	325
Fort Edward.....	2,456
Fort Plain.....	65
Fulton.....	1,600	.....	.....	1,600

Forwarded — Total tonnage, season of 1920 — (Concluded)

	PRODUCTS OF THE GROUND					Total
	Anthracite coal	Bituminous coal	Iron ore	Sand, stone, gravel	Clay	All other
Geneva.....	90
Glens Falls.....	46,727
Hastings.....	366
Hudson.....	960
Hudson Falls.....	7,537
Hulberton.....	1,130	.....	1,130
Ludlowville.....	4,473
Lyons.....	348
Mechanicville.....	12,013	.....	12,013
New York City.....	11,742	2,027	.....	12,697	20,875	171,738
Northumberland.....	210
Oak Orchard.....	34,301	.....	34,301
Oswego.....	2,033	.....	2,359
Port Byron.....	202
Port Henry.....	132,016	.....	.....	132,016
Portland Point.....	16,020
Poughkeepsie.....	166
Remington.....	2,061
Rhinecliff.....	400	.....	400
Rochester.....	22,138
Rome.....	800	.....	1,834
					3,635	

Rondout.....	2,260	346	.....	.....	.....	.....	2,606
Schenectady.....	.....	.....	.....	.....	.....	.....	4,487
Schuylerville.....	.....	.....	.....	.....	.....	.....	197
Scotia.....	.....	.....	.....	.....	13,173	.....	13,173
Seneca Falls.....	.....	.....	.....	.....	.....	.....	200
Smith's Basin.....	.....	.....	.....	.....	.....	.....	1,017
Sprakers.....	.....	.....	.....	.....	.....	.....	69
Sylvan Beach.....	.....	.....	.....	.....	1,360	.....	1,360
Syracuse.....	32,800	1,205	.....	.....	.....	.....	66,436
Tonawanda.....	.....	.....	.....	.....	258,740	.....	284,980
Troy.....	5,289	2,617	112	.....	3,258	1,000	65,482
Utica.....	.....	.....	.....	.....	.....	.....	120
Vischer's Ferry.....	.....	.....	.....	.....	5,113	.....	5,113
Waterford.....	.....	.....	.....	.....	.....	.....	232
Waterloo.....	.....	.....	.....	.....	9,862	.....	9,862
Watkins.....	.....	.....	.....	.....	.....	.....	4,201
Whitehall.....	.....	.....	.....	.....	2,925	.....	3,285
Wilbur's Basin.....	.....	.....	.....	.....	8,468	.....	8,638
Yonkers.....	.....	.....	.....	.....	.....	.....	4,381
Total.....	53,686	7,976	132,128	371,073	23,911	5,432	1,421,434

RECEIVED — Total tonnage, season of 1920

MANUFACTURED PRODUCTS						
Iron, pig and bloom	Iron or steel articles	Other metals	Petroleum and other oil	Cement and lime	Brick	Salt
Albany.....	278	762	.....	.....
Amsterdam.....	3,448	160	.....	.....
Baldwinsville.....	2,490	.....	.....
Black Rock.....
Boonville.....
Brewerton.....	550	.....	.....
Brooklyn.....	612	.....	.....
Buffalo.....	210	888	730	.....	.....
Burlington, Vt.....	12,822	168	.....	.....
Canada.....	595	.....	.....	.....
Catskill.....
Cohoes.....	153	.....	.....
Durhamville.....
Fairport.....	250	.....	.....
Fort Edward.....	5,630	310	.....	.....
Fort Miller.....
Fort Plain.....	680	.....	.....
Fulton.....	1,759	.....	.....	.....
Geneva.....	1,598	.....	.....	.....
Glens Falls.....	15	.....
Hastings.....
Herkimer.....	500	.....	.....
Hudson Falls.....
Little Falls.....	6,249	590	.....	.....

Received — Total tonnage, season of 1920 — (Continued)

	MANUFACTURED PRODUCTS — (Continued)		Product of animals	MISCELLANEOUS PRODUCTS		
	Chemicals, drugs, etc.	All other		Ice	Merchandise, N. O. S.	All other
Albany.....	50	100	.....	.....	287	120
Amsterdam.....
Baldwinsville.....
Black Rock.....
Boonville.....
Brewerton.....
Brooklyn.....
Buffalo.....	475	6,361	.....	.....	8,836	.....
Burlington, Vt.....
Canada.....	10,277	.....	.....	.....	.....
Catskill.....
Cohoes.....
Durhamville.....
Fairport.....
Fort Edward.....	3,672	.....	.....	.....	.....
Fort Miller.....
Fort Plain.....
Fulton.....	120	.....	.....	150	1,793
Geneva.....
Glens Falls.....
Hastings.....
Herkimer.....
Hudson Falls.....
Little Falls.....

Received — Total tonnage, season of 1920 — (Continued)

	PRODUCTS OF AGRICULTURE						
	Wheat	Oats	Rye	Barley	Barley malt	Flour	Hay
Albany.....
Amsterdam.....
Baldwinsville.....
Black Rock.....
Boonville.....	40
Brewerton.....
Brooklyn.....
Buffalo.....
Burlington, Vt.....
Canada.....
Catskill.....
Cohoes.....
Durhamville.....
Fairport.....
Fort Edward.....
Fort Miller.....
Fort Plain.....
Fulton.....
Geneva.....
Glens Falls.....
Hastings.....
Herkimer.....
Hudson Falls.....
Little Falls.....

Lockport.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Lyons.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Macedon.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Mechanicville.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Medina.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Middleport.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Montezuma.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
New York.....	58,386	1,184	49,572	3,679	2,661	14,733	8,590	.....	.....
Oswego.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Peekskill.....	.....	.....	.....	.....	1,557	.....	.....	.....	.....
Pittsford.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Port Henry.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Rochester.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Rome.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Rouses Point.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Saugerties.....	1,930	.....	.....	.....	.....	.....	.....	.....	.....
Schenectady.....	.....	.....	.....	.....	.....	278	.....	.....	.....
Schuylerville.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Seneca Falls.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Stillwater.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Syracuse.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Tonawanda.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Troy.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Utica.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Waterford.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Waterloo.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Watervliet.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Whitehall.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total.....	58,386	1,184	49,572	3,679	4,218	15,011	8,630	.....	.....

Received — Total tonnage, season of 1920 — (Continued)

	PRODUCTS OF AGRICULTURE — (Continued)				PRODUCTS OF FOREST			
	Flaxseed	Cotton	Fruit and vegetables	All other	Lumber	Wood pulp	Pulpwood	All other
Albany.....	1,512	.....	.....	.....
Amsterdam.....
Baldwinsville.....
Black Rock.....	12,200	.....	.....	.....
Boonville.....
Brewerton.....
Brooklyn.....	2,747	.....	.....	246
Buffalo.....	78,111	70	336	200	.....	.....	.....	.....
Burlington, Vt.....
Canada.....	1,060	.....	.....	.....	.....	.....	.....	.....
Catskill.....	113	.....	.....	108
Cohoes.....
Durhamville.....	100	.....	.....	.....
Fairport.....
Fort Edward.....	541	25,264	.....
Fort Miller.....	6,113	.....
Fort Plain.....
Fulton.....	660	.....	.....
Geneva.....
Glens Falls.....	21,893	328	.....	.....
Hastings.....	217	.....	.....	.....
Herkimer.....
Hudson Falls.....
Little Falls.....	13,402	.....	.....	.....

Received — Total tonnage, season of 1920 — (Concluded)

	PRODUCTS OF THE GROUND					Total
	Anthracite coal	Bituminous coal	Iron ore	Sand, stone, gravel	Clay	All other
Albany.....				280		
Amsterdam.....						7,877
Baldwinsville.....	1,380	1,140		7,482		3,608
Black Rock.....						12,492
Boonville.....						12,200
Brewerton.....						40
Brooklyn.....						550
Buffalo.....					7,924	3,605
Burlington, Vt.....				253,650		371,049
Canada.....	7,371	428		6,306	5,775	13,290
Catskill.....						33,162
Cohoes.....						221
Durhamville.....						153
Fairport.....				800		100
Fort Edward.....						1,050
Fort Miller.....						35,417
Fort Plain.....						6,113
Fulton.....	25					680
Geneva.....						4,507
Glens Falls.....	1,179					1,598
Hastings.....						23,415
Herkimer.....						217
Hudson Falls.....	1,734					500
Little Falls.....						15,136
						6,839

Lockport.....	8,400	.....	.....	.....	8,400	.....	.....	.....	8,400
Lyons.....	.....	.....	.....	.....	.....	.....	.....	.....	650
Macedon.....	.....	.....	.....	.....	.....	.....	.....	.....	10
Mechanicville.....	.....	.....	.....	.....	.....	.....	.....	.....	50,070
Medina.....	.....	.....	.....	.....	.....	.....	.....	.....	1,746
Middleport.....	.....	.....	.....	.....	.....	.....	.....	.....	6,617
Montezuma.....	.....	.....	.....	.....	.....	.....	.....	.....	4,315
New York.....	.....	.....	.....	.....	.....	.....	.....	.....	538,889
Oswego.....	.....	.....	.....	.....	.....	.....	.....	.....	2,668
Peekskill.....	.....	.....	.....	.....	.....	.....	.....	.....	1,557
Pittsford.....	.....	.....	.....	.....	.....	.....	.....	.....	100
Port Henry.....	.....	.....	.....	.....	.....	.....	.....	.....	2,527
Rochester.....	.....	.....	.....	.....	.....	.....	.....	.....	24,754
Rome.....	.....	.....	.....	.....	.....	.....	.....	.....	3,348
Rouses Point.....	.....	.....	.....	.....	.....	.....	.....	.....	1,096
Saugerties.....	.....	.....	.....	.....	.....	.....	.....	.....	1,930
Schenectady.....	.....	.....	.....	.....	.....	.....	.....	.....	34,120
Schuylerville.....	.....	.....	.....	.....	.....	.....	.....	.....	250
Seneca Falls.....	.....	.....	.....	.....	.....	.....	.....	.....	2,901
Stillwater.....	.....	.....	.....	.....	.....	.....	.....	.....	112
Syracuse.....	.....	.....	.....	.....	.....	.....	.....	.....	110,168
Tonawanda.....	.....	.....	.....	.....	.....	.....	.....	.....	5,794
Troy.....	.....	.....	.....	.....	.....	.....	.....	.....	9,643
Utica.....	.....	.....	.....	.....	.....	.....	.....	.....	14,707
Waterford.....	.....	.....	.....	.....	.....	.....	.....	.....	4,788
Waterloo.....	.....	.....	.....	.....	.....	.....	.....	.....	250
Watervliet.....	.....	.....	.....	.....	.....	.....	.....	.....	1,512
Whitehall.....	.....	.....	.....	.....	.....	.....	.....	.....	34,693
Total.....	53,686	7,976	132,128	371,073	23,911	5,432	1,421,434		

ANNUAL STATEMENT showing the individual tonnage for the season of 1920

	MAY		JUNE		JULY		AUGUST	
	Forward	Received	Forward	Received	Forward	Received	Forward	Received
Albany.....		1,515	10,791	1,921	15,939	2,048	13,745	681
Amsterdam.....		200		980	380	755	100	70
Baldwinsville.....				980	600	4,118		2,612
Beacon.....								3,200
Black Rock.....								
Boonville.....			1,400	40	400		600	
Brewster.....					2,430		1,950	
Brooklyn.....		612		612		550		511
Buffalo.....	4,837	48,032	20,862	57,414	45,163	68,410	32,614	40,690
Burlington.....	534		1,377	1,585	1,898	2,380	1,107	2,880
Canastota.....	7,449	563	24,351	3,862	21,186	6,408	31,141	4,152
Catskill.....					400			
Colosse.....				221			310	
Coveville.....				153				
Crescent.....	474		221					
Dunham's Basin.....							800	
Durhamville.....								
East Varick.....					50		25	
Fairport.....				800		250		
Fonda.....					100			
Fort Edward.....		336		5,278	200	5,081		9,323
Fort Miller.....				616		938		1,848
Fort Plain.....					65		680	
Fulton.....		601		1,305		195	700	882
Geneva.....								
Glen Falls.....	5,063	2,651	7,142	2,945	7,957	3,596	6,857	2,815
Hastings.....						217	101	
Herkimer.....					960			260
Hudson.....	663	1,212	1,554	2,112	1,845			
Hudson Falls.....	230		900			2,811	764	2,065
Hulberton.....		538		295				
Little Falls.....		1,680		2,400		613		2,345
Lockport.....						2,400		1,920
Lodi.....			403					
Lodi.....				300		1,615	1,210	
Lodi.....						260		

Annual Statement showing the individual tonnage for the season of 1920 — (Concluded)

1920	SEPTEMBER		OCTOBER		NOVEMBER		TOTAL	
	Forward	Received	Forward	Received	Forward	Received	Forward	Received
Albany.....	18,579	280	17,911	853	7,333	579	84,298	7,877
Amsterdam.....		578		700	235	525	3,715	3,698
Baldwinsville.....		3,332		870	630	380	1,220	12,492
Beacon.....	4		10		880		1,804	
Black Rock.....		4,900		2,300		1,800		12,200
Brownville.....	200		400		680		3,680	40
Brooklyn.....	3,200						7,580	550
Brooklyn.....	554	359		348		342	7,584	3,805
Buffalo.....	27,739	61,111	39,483	53,391	37,972	43,983	208,870	371,049
Burlington.....	2,108	5,138		2,097		700	7,840	13,280
Canada.....	24,593	11,102	33,701	5,961	21,920	1,009	164,401	33,162
Catskill.....	200		400		380		1,380	
Coatesville.....	418						1,728	221
Coveville.....					82			153
Crescent.....							1,274	
Dunham's Basin.....					409		409	
Durhamville.....							26	100
East Varick.....			20				79	
Fairport.....					225			1,030
Fonda.....		2,899		8,208	2,236	4,494	325	35,417
Fort Edward.....		1,176		1,535			2,456	6,113
Fort Miller.....								690
Fort Plain.....								4,507
Fulton.....	900	885		540		90	1,600	1,598
Geneva.....	7,817	700		938			190	23,415
Glens Falls.....	119	5,311	6,742	3,661	5,149	2,436	46,727	217
Hastings.....			146				366	590
Herkimer.....		240						
Hudson.....								
Hudson Falls.....	1,253	1,068	746	2,004	712	2,874	7,537	15,136
Hulberton.....							1,130	
Little Falls.....		940		1,313		595		0,830
Lockport.....								8,400
Ludlowville.....	1,146						4,473	
Lyons.....		100			348		348	650

	1,764	13,011	1,010	10	1,150	6,344	12,013	10
Macedon.....	1,764	13,011	1,010	12,286	1,150	6,344	12,013	50,070
Mechanville.....	.....	240	.....	.....	.....	.....	.....	1,746
Medina.....	.....	960	.....	.....	.....	.....	.....	6,617
Middleport.....	.....	1,020	.....	.....	.....	.....	.....	4,315
Montcauna.....	36,341	86,389	24,746	85,468	12,717	70,694	171,738	538,889
New York City.....	.....	.....	.....	.....	210	.....	210	.....
Northumberland.....	.....	.....	.....	.....	5,918	.....	34,301	2,668
Oak Orchard.....	7,893	450	7,073	.....	85	.....	2,359	1,557
Oswego.....	993	780	.....	797	.....	.....	.....	1,100
Pekskill.....	.....	.....	.....	.....	.....	.....	.....	.....
Pittsford.....	202	.....	.....	.....	.....	.....	202	2,527
Port Byron.....	28,296	771	22,360	397	8,952	442	132,016	.....
Port Henry.....	1,980	.....	235	.....	.....	.....	16,020	.....
Portland Point.....	166	.....	.....	.....	.....	.....	166	.....
Poughkeepsie.....	495	.....	.....	.....	.....	.....	2,061	.....
Remington.....	.....	.....	.....	.....	.....	.....	400	.....
Rhinecliff.....	.....	3,443	2,045	3,402	1,794	1,268	22,138	24,754
Rochester.....	7,502	1,400	.....	.....	.....	550	1,834	3,348
Rome.....	200	.....	190	.....	.....	.....	2,606	.....
Rondout.....	168	700	.....	396	.....	.....	.....	1,096
Rouses Point.....	.....	.....	.....	557	.....	1,373	.....	1,980
Saugerties.....	690	5,729	602	3,931	725	5,580	4,487	34,120
Schenectady.....	70	250	.....	.....	.....	.....	107	250
Schuylerville.....	2,041	.....	1,500	1,143	3,200	350	13,173	2,901
Scotia.....	.....	.....	.....	.....	1,017	.....	1,017	.....
Seneca Falls.....	.....	.....	.....	.....	.....	.....	69	112
Smith's Basin.....	.....	.....	.....	.....	.....	.....	.....	.....
Sprakers.....	.....	.....	.....	.....	.....	.....	.....	.....
Stillwater.....	360	.....	360	.....	640	.....	1,360	.....
Sylvan Beach.....	11,873	22,037	7,185	15,147	7,390	11,353	66,436	110,168
Syracuse.....	48,427	1,318	42,420	.....	37,268	1,200	284,980	5,794
Tonawanda.....	180	4,525	175	.....	36	662	65,482	9,643
Troy.....	.....	1,190	700	3,203	.....	1,400	1,20	14,707
Utica.....	1,276	168	.....	591	1,272	840	5,113	.....
Vischer's Ferry.....	232	.....	465	.....	.....	.....	232	4,788
Waterford.....	2,752	.....	.....	.....	.....	170	9,862	250
Waterloo.....	.....	.....	.....	.....	.....	.....	.....	1,512
Watervliet.....	.....	.....	.....	.....	.....	.....	.....	.....
Watkins.....	1,258	1,457	.....	1,438	350	2,127	4,201	34,693
Whitehall.....	1,700	.....	2,030	.....	1,605	.....	3,285	8,638
Willbur's Basin.....	.....	.....	.....	.....	.....	.....	.....	.....
Yonkers.....	.....	.....	.....	.....	.....	.....	4,331	.....
Total.....	246,637	246,637	213,522	213,522	164,270	164,270	1,421,434	1,421,434

308 REPORT OF SUPERINTENDENT OF PUBLIC WORKS

The following statement shows the average lake and canal rates on wheat, in cents per bushel, since 1890

YEAR	Lake	Canal	YEAR	Lake	Canal
1890.....	1.98	3.87	1906.....	1.67	4.24
1891.....	.....	3.53	1907.....	1.54	5.07
1892.....	2.21	3.44	1908.....	1.10	5.00
1893.....	1.66	4.65	1909.....	1.27	3.90
1894.....	1.24	3.13	1910.....	1.06	4.08
1895.....	1.80	2.20	1911.....	1.03	4.36
1896.....	1.60	3.70	1912.....	1.36	4.32
1897.....	1.25	1.84	1913.....	1.40	4.57
1898.....	1.69	2.87	1914.....	.....	4.27
1899.....	2.50	2.92	1915.....	1.33	4.47
1900.....	1.82	2.51	1916.....	1.12	5.00
1901.....	1.76	3.46	1917.....	.....	5.50
1902.....	1.50	3.73	1918.....	2.00	9.80
1903.....	1.40	4.03	1919.....	2.21	8.31
1904.....	1.50	3.14	1920.....	2.89	11.05
1905.....	1.64	3.87			

Average rate per bushel, on wheat by lake, from Chicago to Buffalo, and by canal, from Buffalo to New York, during the season of 1920

	May	June	July	Aug.	Sept.	Oct.	Nov.	Average
Lake.....	3.250	3.250	2.750	2.750	2.750	2.750	2.750	2.893
Canal....	11.000	11.000	8.000	8.250	8.250	10.202	10.202	9.558

The following statement shows the number of clearances issued at each office during the season of 1920

	Clearances
Troy.....	2,306
Schenectady.....	70
Utica.....	23
Rome.....	51
Syracuse.....	782
Rochester.....	179
Tonawanda.....	137
Buffalo.....	646
Fort Edward.....	112
Hudson Falls.....	36
Glens Falls.....	63
Whitehall.....	1,227
Waterloo.....	273
Fulton.....	43
Oswego.....	35
Total.....	5,983

Receipts by all routes at New York, April 30 to November 30, 1920

	Hudson	West Shore	Erie	Pennsylvania	D., L. & W.	L. V. R. R.
Flour, barrels.....	324,511	308,036	466,787	237,970	741,058	2,171,384
Meal, barrels.....	.....	.....	300	3,350	1,260	.....
Meal, sacks.....	1,200	1,000	7,910	5,840	7,425	.....
Wheat, bushels.....	382,600	12,300,500	7,230,500	45,000	15,447,500	5,435
Corn, bushels.....	117,500	403,500	433,400	7,500	362,800	9,216,800
Oats, bushels.....	3,330,000	702,000	4,125,500	.....	848,000	599,600
Barley, bushels.....	42,500	872,100	446,900	11,900	543,700	729,200
Rye, bushels.....	104,300	3,650,000	4,502,700	7,500	4,819,700	419,900
Total grain.....	3,976,900	17,928,100	16,739,000	71,900	22,021,700	5,321,500
Flour, bushels.....	1,460,299	1,386,161	2,100,541	1,070,865	3,334,761	16,286,700
Meal, bushels.....	2,400	2,000	17,020	25,080	19,890	9,771,229
Grand total.....	5,439,599	19,316,261	18,856,561	1,167,845	25,376,351	10,870
Per cent.....	5.21	18.51	18.07	1.12	24.31	24.97

Receipts by all routes at New York, etc.— (Concluded)

	B. & O. R. R.	Various	Total rail	River and coast	Canal	Total water	Total rail and water
Flour, barrels.....	38,100	203	4,288,049	5,290	80,216	85,506	4,373,555
Meal, barrels.....	.....	.....	4,910	.....	.....	.....	4,910
Meal, sacks.....	8,480	.....	37,290	.....	.....	.....	37,290
Wheat, bushels.....	.....	.....	44,622,900	155,000	1,502,666	1,657,666	46,280,566
Corn, bushels.....	.....	.....	1,924,300	4,308,196	.....	4,308,196	6,232,496
Oats, bushels.....	34,000	.....	9,768,700	79,100	76,100	155,200	9,923,900
Barley, bushels.....	.....	.....	2,337,000	46,800	640,614	687,414	3,024,414
Rye, bushels.....	.....	.....	18,405,400	.....	723,457	723,457	19,128,857
Total grain.....	34,000	.....	77,058,300	4,589,096	2,942,837	7,531,933	84,590,233
Flour, bushels.....	171,450	914	19,296,220	23,805	360,972	384,777	19,680,997
Meal, bushels.....	16,960	.....	94,220	.....	.....	.....	94,220
Grand total.....	222,410	914	96,448,740	4,612,901	3,303,809	7,916,710	104,365,450
Per cent.....	0.21	.....	92.41	41.42	3.17	7.59	100.00

Receipts by all routes at New York, January 1 to December 31, 1920

	Hudson	West Shore	Erie	Pennsylvania	D., L. & W.	L. V. R. R.
Flour, barrels.....	434, 939	335, 744	640, 168	358, 759	997, 719	3, 597, 877
Meal, barrels.....	.....	.....	300	3, 350	1, 260	.....
Meal, sacks.....	4, 800	1, 000	13, 968	14, 494	16, 050	10, 835
Wheat, bushels.....	554, 900	15, 440, 600	8, 493, 600	45, 000	22, 546, 500	13, 332, 100
Corn, bushels.....	199, 400	599, 900	513, 600	7, 500	456, 600	676, 600
Oats, bushels.....	4, 520, 000	800, 000	6, 041, 500	.....	1, 576, 200	1, 577, 200
Barley, bushels.....	66, 300	1, 408, 350	577, 050	11, 900	830, 800	717, 750
Rye, bushels.....	120, 350	4, 818, 650	6, 263, 000	7, 500	6, 336, 050	5, 928, 850
Total grain.....	5, 460, 950	23, 067, 500	21, 888, 750	71, 900	31, 745, 950	22, 232, 600
Flour, bushels.....	1, 957, 227	1, 510, 848	2, 880, 756	1, 614, 416	4, 489, 736	16, 190, 442
Meal, bushels.....	9, 600	2, 000	29, 136	42, 388	37, 140	21, 670
Grand total.....	7, 427, 777	24, 580, 348	24, 798, 642	1, 728, 704	36, 272, 826	38, 444, 712
Per cent.....	5.10	16.89	17.04	1.20	24.93	26.41

Receipts by all routes at New York, etc.— (Concluded)

	B. & O. R. R.	Various	Total rail	River and coast	Canal	Total water	Total rail and water
Flour, barrels.....	442,292	774	6,808,472	17,023	80,216	97,239	6,905,711
Meal, barrels.....	2,543	.....	7,453	.....	.....	.....	7,453
Meal, sacks.....	53,873	.....	115,020	.....	.....	.....	115,020
Wheat, bushels.....	.....	.....	60,412,700	155,000	2,005,635	2,160,635	62,573,335
Corn, bushels.....	1,500	.....	2,455,200	4,309,696	.....	4,309,696	6,764,896
Oats, bushels.....	62,000	.....	14,576,700	79,100	76,100	155,200	14,731,900
Barley, bushels.....	.....	.....	3,612,150	1,345,900	451,257	1,797,157	5,409,307
Rye, bushels.....	.....	.....	23,474,400	.....	1,244,814	1,244,814	24,719,214
Total grain.....	63,500	.....	104,531,150	5,889,696	3,777,806	9,667,502	114,198,652
Flour, bushels.....	1,991,214	3,483	30,638,122	76,603	360,972	437,575	31,075,697
Meal, bushels.....	117,918	.....	259,852	.....	.....	.....	259,852
Grand total.....	2,172,632	3,483	135,429,124	5,966,299	4,138,778	10,105,077	145,534,201
Per cent.....	1.49	.....	93.06	4.10	2.84	6.94	100.00

The tons of the total movement of articles on all the canals from 1837 to 1919, both inclusive, were as follows:

YEAR	Products of the forest	Agriculture	Manufactures	Merchandise	Other articles	Total tons
1837.....	618,741	208,043	81,735	94,777	168,000	1,171,296
1838.....	665,089	255,227	101,526	124,290	186,879	1,333,011
1839.....	667,551	266,052	11,968	132,286	257,826	1,345,713
1840 Genesee Valley canal opened.....						
1841.....	587,647	393,780	100,367	112,021	222,231	1,416,046
1842.....	645,548	391,905	127,896	141,054	215,258	1,521,661
1843.....	504,597	401,276	98,968	101,446	130,644	1,236,931
1844.....	687,184	455,797	124,277	119,209	126,972	1,513,439
1845.....	864,373	509,387	144,245	141,930	156,651	1,816,586
1846.....	881,774	555,160	160,638	151,450	228,543	1,977,565
1847.....	916,976	814,258	149,006	169,799	218,623	2,268,662
1848.....	1,086,056	1,092,946	176,448	224,890	287,812	2,869,810
1849.....	1,086,080	913,824	202,781	261,458	331,287	2,796,230
1850.....	1,104,940	1,020,259	203,990	255,455	310,088	2,894,732
1851.....	1,261,991	965,619	200,218	269,370	379,419	3,076,617
1852.....	1,393,698	1,125,264	222,529	365,404	475,838	3,582,733
1853.....	1,586,080	1,213,357	207,955	420,295	435,754	3,863,441
1854.....	1,821,525	1,150,924	230,036	458,327	587,041	4,247,853
1855.....	1,768,745	992,839	258,021	406,022	740,235	4,165,862
1856.....	1,534,493	1,047,344	281,873	374,402	784,064	4,022,617
1857.....	1,478,664	1,192,673	284,901	370,768	789,076	4,116,082
1857.....	1,364,002	767,370	232,803	222,954	776,932	3,344,061

1858.....	1,232,968	1,279,891	295,903	188,441	667,989	3,665,192
1859.....	1,542,035	816,784	299,421	211,182	912,262	3,781,684
1860.....	1,509,977	1,682,754	268,759	250,360	938,364	4,650,124
1861.....	1,052,392	2,144,373	280,256	135,096	895,518	4,507,635
1862.....	1,569,674	2,494,036	364,877	167,927	1,002,271	5,598,785
1863.....	1,628,688	2,236,075	319,432	172,278	1,201,219	5,557,692
1864.....	1,478,921	1,572,836	282,354	143,984	1,374,846	4,852,941
1865.....	1,467,315	1,696,091	281,832	154,968	1,129,448	4,729,654
1866.....	1,769,994	1,786,060	302,241	179,878	1,737,047	5,775,220
1867.....	1,744,252	1,438,517	320,844	319,880	1,964,832	5,688,325
1868.....	1,958,309	1,442,147	373,262	324,064	2,344,443	6,442,225
1869.....	1,855,930	1,314,071	342,239	268,970	2,077,870	5,859,080
1870.....	1,916,511	1,309,153	352,497	271,856	2,323,752	6,173,769
1871.....	1,941,297	1,863,868	336,288	288,428	2,038,007	6,467,888
1872.....	1,950,798	1,683,962	325,564	298,758	2,414,288	6,673,370
1873.....	1,582,072	1,750,418	267,820	172,990	2,591,482	6,364,782
1874.....	1,482,753	1,772,583	246,697	132,181	2,170,374	5,804,588
1875.....	1,250,546	1,311,613	275,731	110,141	1,911,827	4,859,858
1876.....	1,175,313	1,067,497	180,201	64,943	1,684,175	4,172,129
1877.....	1,312,526	1,522,317	184,218	83,010	1,853,892	4,955,963
1878.....	1,364,120	1,921,236	220,063	138,064	1,527,837	5,171,320
1879.....	1,368,849	1,850,347	255,303	237,071	1,650,802	5,362,372
1880.....	1,566,764	2,408,358	278,114	355,165	1,849,255	6,457,656
1881.....	1,652,543	1,171,400	250,961	325,775	1,778,513	5,179,192
1882.....	1,771,743	1,173,257	187,535	283,174	2,051,714	5,467,423
1883.....	1,828,643	1,394,581	242,649	310,844	1,887,339	5,664,056
1884.....	1,671,706	1,264,237	205,013	300,480	1,568,052	5,009,488
1885.....	1,595,632	1,108,711	194,714	220,237	1,612,490	4,731,784
1886.....	1,523,496	1,537,331	165,760	397,249	1,670,146	5,293,982

The tons of the total movement of articles on all the canals, etc. — (Concluded)

YEAR	Products of the forest	Agriculture	Manufactures	Merchandise	Other articles	Total tons
1887.....	1,529,809	1,590,509	212,216	378,734	1,842,537	5,553,805
1888.....	1,389,728	1,177,587	153,905	206,437	2,015,291	4,942,948
1889.....	1,567,311	1,330,231	161,074	262,818	2,048,935	5,370,469
1890.....	1,397,862	1,201,916	139,310	769,672	1,737,342	5,246,102
1891.....	1,206,986	1,171,192	109,387	250,083	1,825,824	4,563,472
1892.....	1,249,381	1,038,851	125,781	292,468	1,575,514	4,281,995
1893.....	1,030,604	1,544,146	66,892	216,013	1,474,308	4,331,963
1894.....	872,601	1,412,142	87,241	352,741	1,157,835	3,882,560
1895.....	974,870	644,009	133,911	251,537	1,495,987	3,500,314
1896.....	852,467	1,136,665	152,322	270,603	1,302,837	3,714,894
1897.....	896,971	789,783	152,388	250,872	1,527,790	3,617,804
1898.....	820,668	707,855	175,632	220,107	1,435,801	3,360,063
1899.....	838,449	620,908	159,413	260,063	1,807,218	3,696,051
1900.....	726,984	511,518	142,784	250,436	1,714,219	3,345,941
1901.....	939,191	558,135	129,857	230,615	1,662,815	3,420,613
1902.....	805,067	572,676	131,755	207,972	1,557,140	3,274,610
1903.....	690,161	595,047	130,406	241,564	1,956,207	3,615,385
1904.....	738,793	427,969	129,665	200,472	1,641,648	3,138,547
1905.....	851,098	436,979	132,438	172,665	1,633,716	3,226,896
1906.....	854,610	648,715	170,584	202,285	1,664,713	3,540,907
1907.....	747,736	606,159	96,916	169,258	1,787,845	3,407,914
1908.....	565,443	449,846	106,371	166,061	1,764,156	3,051,877

1909.....	647,739	447,217	163,871	194,273	1,663,436	3,116,536
1910.....	654,094	492,536	145,419	215,446	1,565,917	3,073,412
1911.....	656,500	355,301	137,463	166,419	1,781,385	3,097,068
1912.....	584,964	196,014	119,512	152,982	1,552,644	2,606,116
1913.....	517,761	256,652	90,799	135,080	1,601,743	2,602,035
1914.....	377,127	217,397	83,504	93,095	1,309,727	2,080,850
1915.....	366,618	218,300	107,058	138,549	1,027,589	1,858,114
1916.....	350,047	142,315	65,949	101,543	965,196	1,625,050
1917.....	378,781	45,519	27,658	84,687	760,580	1,297,225
1918.....	282,720	109,784	76,386	47,582	632,798	1,159,270
1919.....	194,807	184,899	203,307	15,229	640,602	1,238,814

The tons of the total movement of articles on all the canals from 1919 to 1920, both inclusive, were as follows

YEAR	Manufactures	Animal and miscellaneous products	Agriculture	Products of the forest	Products of the ground	Total
1919.....	203,307	64,725	184,899	194,807	591,106	1,238,814
1920.....	325,426	26,581	226,291	248,930	594,206	1,421,434

EXPORTS of flour, wheat and corn from New York, Baltimore, Philadelphia, Boston, New Orleans and Montreal and
the percentage of the exports from each port

(For statistics for previous years see earlier reports.)

	Flour, barrels	Wheat, bushels	Corn, bushels	PERCENTAGE OF TOTAL EXPORTS AT PLACES NAMED		
				Flour	Wheat	Corn
New York.....	1909 2,991,063	1909 12,587,537	1909 4,149,506	36.38	25.97	18.00
Boston.....	461,332	870,339	2,029,923	5.61	1.80	8.80
Philadelphia.....	1,708,721	5,245,290	3,473,940	20.80	10.82	15.05
Baltimore.....	906,169	2,991,527	6,772,959	11.02	6.18	29.35
Montreal.....	1,602,904	25,004,491	424,183	19.49	51.58	1.85
New Orleans.....	550,858	1,773,641	6,225,837	6.70	3.65	26.95
Total.....	8,221,047	48,472,825	23,076,348	100	100	100
New York.....	1910 2,963,869	1910 2,449,860	1910 7,242,901	44.06	8.45	25.42
Boston.....	380,794	721,590	2,719,018	5.66	2.49	9.55
Philadelphia.....	995,687	2,758,039	804,305	14.80	9.51	2.82
Baltimore.....	738,974	2,768,320	7,767,084	10.99	9.53	27.26
Montreal.....	1,074,574	20,089,558	2,751,562	15.97	69.27	9.65
New Orleans.....	572,801	213,687	7,205,151	8.52	0.75	25.30
Total.....	6,726,699	29,001,054	28,490,021	100	100	100

New York.....	1911 3,587,628	1911 7,343,573	1911 12,634,740	44.06	20.55	26.92
Boston.....	389,252	1,432,599	6,306,561	4.78	4.01	13.43
Philadelphia.....	994,591	3,283,341	5,115,233	12.21	9.13	10.90
Baltimore.....	982,354	5,382,748	11,371,720	12.07	15.06	24.23
Montreal.....	1,509,583	17,718,723	5,720,427	18.54	49.55	12.21
New Orleans.....	679,156	602,417	5,793,673	8.34	1.70	12.31
Total.....	8,142,564	35,763,401	46,942,354	100	100	100
New York.....	1912 3,511,743	1912 16,720,248	1912 4,971,768	47.72	26.00	24.05
Boston.....	81,345	734,298	1,740,355	1.11	1.14	8.42
Philadelphia.....	843,169	5,106,567	739,610	11.46	7.93	3.58
Baltimore.....	739,942	3,187,788	9,773,768	10.06	4.96	47.30
Montreal.....	1,556,173	30,652,475	.....	21.14	47.65	.....
New Orleans.....	626,595	7,926,974	3,440,620	8.51	12.32	16.65
Total.....	7,358,967	64,328,350	20,666,121	100	100	100
New York.....	1913 4,023,661	1913 25,602,631	1913 5,930,564	44.00	25.64	17.36
Boston.....	238,229	5,678,052	4,083,959	2.61	5.69	11.93
Philadelphia.....	1,172,232	7,164,886	1,708,772	12.82	7.18	5.02
Baltimore.....	878,585	13,350,162	18,275,534	9.61	13.36	53.51
Montreal.....	1,760,653	33,706,089	50,820	19.25	33.75	0.16
New Orleans.....	1,071,074	14,355,235	4,103,630	11.71	14.38	12.02
Total.....	9,144,434	99,856,555	34,153,279	100	100	100

Exports of flour, wheat and corn from New York, etc. — (Continued)

	Flour, barrels	Wheat, bushels	Corn, bushels	PERCENTAGE OF TOTAL EXPORTS AT PLACES NAMED		
				Flour	Wheat	Corn
	1914	1914	1914			
New York.....	4,852,039	28,799,431	3,548,100	42.27	18.95	40.53
Boston.....	289,945	3,858,122	145,467	2.53	2.54	1.66
Philadelphia.....	1,060,613	11,194,626	309,332	9.25	7.36	3.53
Baltimore.....	916,243	15,053,021	2,998,890	7.95	9.95	34.25
Montreal.....	2,762,139	61,484,474	.....	24.07	40.45	.....
New Orleans.....	1,598,537	31,547,132	1,753,434	13.93	20.75	20.03
Total.....	11,479,516	151,941,806	8,755,223	100	100	100
	1915	1915	1915			
New York.....	7,120,089	50,771,732	9,369,568	55.92	30.84	27.86
Boston.....	484,154	3,920,062	673,962	3.80	2.39	2.04
Philadelphia.....	916,668	24,377,693	1,878,640	7.20	14.80	5.59
Baltimore.....	861,083	21,563,399	17,477,008	6.76	13.09	51.98
Montreal.....	1,136,828	34,025,083	166,734	8.93	20.67	0.47
New Orleans.....	2,213,846	29,970,584	4,055,437	17.39	18.21	12.06
Total.....	12,732,668	164,628,553	33,621,349	100	100	100

New York.....	1916	1916	1916	1916	1916	1916	1916	1916
Boston.....	4,543,731	39,755,160	6,262,866	33.55	25.90	15.41		
Philadelphia.....	243,370	2,826,697	2,284,117	1.78	1.84	5.62		
Baltimore.....	1,087,323	23,903,855	2,979,023	8.02	15.56	7.33		
Montreal.....	2,227,601	29,710,675	19,128,727	16.43	19.35	47.08		
New Orleans.....	3,338,040	34,602,005	4,879,654	24.63	22.53	12.01		
	2,114,068	22,785,121	5,100,415	15.59	14.82	12.55		
Total.....	13,554,133	153,583,513	40,634,802	100	100	100		
New York.....	1917	1917	1917	1917	1917	1917	1917	1917
Boston.....	3,948,010	28,053,452	12,474,570	27.28	22.97	32.02		
Philadelphia.....	408,121	750,130	1,157,120	2.82	0.61	2.96		
Baltimore.....	1,065,498	21,485,805	2,845,013	7.36	17.60	7.31		
Montreal.....	2,031,178	19,536,867	15,474,758	14.04	16.00	39.73		
New Orleans.....	4,195,667	35,313,814	1,908,114	29.00	28.92	4.90		
	2,821,224	16,961,976	5,094,397	19.50	13.90	13.08		
Total.....	14,469,698	122,102,044	38,953,972	100	100	100		
New York.....	1918	1918	1918	1918	1918	1918	1918	1918
Boston.....	6,105,619	19,289,688	6,841,565	31.72	21.56	35.57		
Philadelphia.....	1,445,107	4,642,029	327,304	7.50	5.19	1.71		
Baltimore.....	1,603,892	16,752,320	1,239,749	8.33	18.70	6.42		
Montreal.....	2,007,333	17,258,200	1,414,328	10.43	19.26	7.36		
New Orleans.....	5,299,487	22,081,804	.....	27.52	24.67	0.00		
	2,789,336	9,401,837	9,415,384	14.50	10.62	48.94		
Total.....	19,250,774	89,425,878	19,238,330	100	100	100		

Exports of flour, wheat and corn from New York, etc.— (Concluded)

	Flour, barrels	Wheat, bushels	Corn, bushels	PERCENTAGE OF TOTAL EXPORTS AT PLACES NAMED		
				Flour	Wheat	Corn
New York.....	1919 7,799,401	1919 39,131,660	1919 1,196,399	34.95	25.90	29.83
Boston.....	940,400	9,351,179	1,761	4.21	6.19	0.04
Philadelphia.....	2,997,692	31,517,322	483,649	13.43	20.86	12.06
Baltimore.....	2,546,884	25,501,321	810,699	11.41	16.88	20.22
Montreal.....	5,515,534	32,802,977	285,212	24.70	21.71	7.11
New Orleans.....	2,521,423	12,785,563	1,233,081	11.30	8.46	30.74
Total.....	22,321,334	151,090,022	4,010,801	100	100	100
New York.....	1920 6,592,000	1920 45,593,000	1920 2,919,000	44.46	24.43	42.11
Boston.....	196,747	4,174,554	58,854	1.33	2.24	0.85
Philadelphia.....	2,983,548	17,684,343	700,665	20.12	9.47	10.10
Baltimore.....	1,882,532	27,798,338	1,623,402	12.70	14.89	23.42
Montreal.....	1,554,089	42,706,330	487,453	10.48	22.88	7.03
New Orleans.....	1,617,169	48,695,864	1,142,998	10.91	26.09	16.49
Total.....	14,826,085	186,652,429	6,932,372	100	100	100

STATEMENT of the tons of property moved on each and all the canals, comprising the tons of total movement

YEAR	Erie	Champlain	Oswego	Cayuga and Seneca	Chemung	Crooked Lake
1837.....	667,151	261,659	161,353	20,274	20,288	24,258
1838.....	744,848	266,553	222,697	23,541	30,256	30,336
1839.....	845,007	263,552	221,300	26,300	36,089	26,823
1840.....	829,960	245,229	219,627	32,486	34,217	24,026
1841.....	906,442	276,418	135,689	34,634	63,042	33,030
1842.....	712,310	230,844	129,498	31,716	54,866	18,660
1843.....	819,216	262,212	240,571	25,998	66,247	31,856
1844.....	945,944	269,546	326,607	31,099	88,231	32,589
1845.....	1,038,700	266,922	340,481	46,464	114,740	39,489
1846.....	1,264,408	280,480	351,511	61,014	124,768	35,556
1847.....	1,661,575	313,124	441,096	58,204	189,165	36,318
1848.....	1,599,965	293,889	490,147	46,252	150,691	34,155
1849.....	1,622,444	321,345	557,637	40,440	135,867	36,317
1850.....	1,635,089	460,219	583,346	42,379	128,263	38,797
1851.....	1,955,265	513,793	676,321	37,084	159,563	29,399
1852.....	2,159,334	531,001	684,191	47,275	147,577	35,757
1853.....	2,198,308	608,354	761,276	58,793	249,980	53,985
1854.....	2,224,008	602,913	611,533	72,995	270,978	25,349
1855.....	2,202,463	537,108	654,399	76,744	223,271	25,850
1856.....	2,107,678	611,610	657,381	131,907	245,621	28,559
1857.....	1,566,624	547,236	605,218	120,435	187,201	16,571
1858.....	1,767,004	608,918	688,960	75,968	205,168	16,318
1859.....	1,753,954	751,046	612,390	80,602	256,323	17,933

Statement of the tons of property moved on each and all the canals, etc.— (Continued)

YEAR	Erie	Champlain	Oswego	Cayuga and Seneca	Chemung	Crooked Lake
1860.....	2,253,533	681,157	1,080,076	98,678	226,051	14,723
1861.....	2,500,782	545,930	852,920	100,992	208,792	12,329
1862.....	3,204,277	647,318	1,063,413	125,659	243,628	19,632
1863.....	2,955,302	878,920	992,173	119,704	307,151	11,230
1864.....	2,535,792	846,790	765,079	185,161	280,834	6,316
1865.....	2,523,490	815,311	825,649	192,312	164,796	9,376
1866.....	2,896,027	1,001,493	990,809	368,223	226,510	12,189
1867.....	2,920,578	1,047,440	940,136	389,704	145,627	6,558
1868.....	3,346,986	1,120,585	958,444	515,295	165,875	4,451
1869.....	2,845,072	1,059,339	934,638	533,516	245,761	7,541
1870.....	3,083,132	1,143,719	917,728	527,728	206,535	15,825
1871.....	3,580,922	1,099,995	941,858	445,186	173,281	12,024
1872.....	3,562,560	1,449,528	832,490	386,977	217,263	7,145
1873.....	3,602,535	1,195,390	655,588	437,382	257,962	12,831
1874.....	3,097,122	1,268,292	665,408	378,825	205,602	9,286
1875.....	2,787,226	1,077,746	486,530	224,492	129,425	.....
1876.....	2,418,422	910,151	370,330	137,264	214,448	.....
1877.....	3,254,367	1,021,782	319,327	247,864	12,026	.....
1878.....	3,608,634	1,040,912	257,254	168,201	8,767	.....
1879.....	3,820,027	1,012,005	333,713	117,027	.....	.....
1880.....	4,608,651	1,200,503	427,863	125,331	.....	.....
1881.....	3,598,721	986,079	391,542	99,617	.....	.....
1882.....	3,694,364	1,097,343	445,295	123,448	.....	.....

1883.....	3,587,102	1,366,358	276,350	134,631	.....
1884.....	3,389,555	1,118,073	260,541	119,980	.....
1885.....	3,208,207	1,139,402	213,070	64,125	.....
1886.....	3,808,642	1,119,663	186,484	64,995	.....
1887.....	3,840,513	1,229,335	176,177	195,933	.....
1888.....	3,321,516	1,198,305	134,078	201,237	.....
1889.....	3,673,554	1,187,038	170,078	196,138	.....
1890.....	3,303,929	1,520,757	225,936	63,419	.....
1891.....	3,097,853	1,101,126	161,426	80,954	.....
1892.....	2,978,832	1,021,139	90,886	75,669	.....
1893.....	3,235,726	848,965	92,634	38,761	.....
1894.....	3,144,144	550,279	98,843	33,270	.....
1895.....	2,356,084	966,335	64,154	49,050	.....
1896.....	2,742,438	802,519	57,245	54,739	.....
1897.....	2,584,906	797,637	53,537	110,277	.....
1898.....	2,338,020	804,076	47,662	100,342	.....
1899.....	2,419,084	1,043,315	49,373	113,476	.....
1900.....	2,145,876	972,867	31,742	130,126	.....
1901.....	2,257,035	885,641	43,210	166,258	.....
1902.....	2,105,876	766,615	143,707	155,152	.....
1903.....	2,414,018	801,649	184,434	116,918	.....
1904.....	1,945,708	796,468	170,342	140,656	.....
1905.....	1,999,824	833,550	178,777	123,927	.....
1906.....	2,385,491	740,983	172,228	164,874	.....
1907.....	2,415,548	678,506	143,277	112,570	.....
1908.....	2,177,443	614,762	92,831	81,029	.....
1909.....	2,031,307	732,125	121,717	84,957	.....
1910.....	2,023,185	684,027	110,079	80,125	.....
1911.....	2,031,735	770,668	113,891	98,854	.....

Statement of the tons of property moved on each and all the canals, etc.—(Continued)

YEAR	Erie	Champlain	Oswego	Cayuga and Seneca	Chemung	Crooked Lake
1912.....	1,795,069	590,723	83,580	80,753	.....	.....
1913.....	1,788,453	554,892	61,554	149,874	.....	.....
1914.....	1,361,764	492,014	55,705	128,698	.....	.....
1915.....	1,155,235	503,030	142,312	26,384	.....	.....
1916.....	917,689	506,528	135,948	44,421	.....	.....
1917.....	675,083	515,754	74,042	17,525	.....	.....
1918.....	667,374	434,784	44,661	7,509	.....	.....
1919.....	842,164	363,699	15,888	12,252	.....	.....

Statement of the tons of property moved on each and all the canals, etc.—(Continued)

YEAR	Chenango	Genesee Valley	Black River	Oneida Lake	Baldwinsville	Total
1837.....	8,213	.....	.....	.....	.....	1,171,296
1838.....	14,778	.....	.....	.....	.....	1,333,011
1839.....	16,928	.....	.....	.....	.....	1,435,713
1840.....	16,848	13,653	.....	.....	.....	1,416,046
1841.....	23,365	26,892	.....	22,150	.....	1,521,681
1842.....	17,177	41,860	.....	.....	.....	1,236,931
1843.....	19,026	48,313	.....	.....	.....	1,513,439
1844.....	31,472	65,077	.....	26,445	.....	1,816,586
1845.....	38,305	73,546	.....	25,991	.....	1,977,565
1846.....	41,112	87,614	.....	28,808	.....	2,268,662
1847.....	44,051	95,632	.....	22,188	.....	2,849,810
1848.....	35,207	98,467	.....	30,642	.....	2,796,230
1849.....	36,557	84,674	.....	47,451	.....	2,794,732
1850.....	41,892	89,804	.....	59,451	.....	3,076,617
1851.....	40,307	100,000	25,320	65,828	.....	3,582,733
1852.....	44,939	122,901	36,597	45,049	.....	3,863,441
1853.....	76,538	157,164	41,924	43,969	.....	4,247,853
1854.....	77,124	158,942	55,525	34,532	31,945	4,165,862
1855.....	89,390	102,321	51,347	27,116	32,608	4,022,617
1856.....	105,502	113,731	68,126	18,485	27,481	4,116,082
1857.....	96,722	114,576	69,135	19,343	.....	3,344,061
1858.....	72,526	118,303	62,553	19,675	.....	3,665,192
1859.....	89,691	124,263	75,946	19,536	.....	3,981,648

Statement of the tons of property moved on each and all the canals, etc.—(Continued)

YEAR	Chenango	Genesee Valley	Black River	Oneida Lake	Baldwinville	Total
1860.....	83,635	123,602	70,687	18,672	.....	4,650,214
1861.....	91,661	94,329	69,930	30,060	.....	4,707,635
1862.....	79,442	129,974	85,442	.....	.....	5,598,785
1863.....	90,215	112,549	90,448	.....	.....	5,557,692
1864.....	89,021	71,411	72,519	.....	.....	4,852,941
1865.....	68,822	56,581	73,317	.....	.....	4,729,654
1866.....	107,472	86,579	85,908	.....	.....	5,775,220
1867.....	103,064	64,679	70,539	.....	.....	5,688,325
1868.....	112,455	138,364	79,770	.....	.....	6,442,225
1869.....	83,527	69,141	80,550	.....	.....	5,859,080
1870.....	102,820	79,733	96,329	.....	.....	6,173,769
1871.....	39,793	85,269	89,560	.....	.....	6,467,888
1872.....	26,519	96,113	94,776	.....	.....	6,673,370
1873.....	30,317	86,770	86,017	.....	.....	6,364,782
1874.....	33,059	69,393	77,601	.....	.....	5,804,588
1875.....	23,769	64,677	65,993	.....	.....	4,859,858
1876.....	6,227	47,360	67,927	.....	.....	4,172,129
1877.....	.....	37,311	63,286	.....	.....	4,955,963
1878.....	.....	18,569	68,983	.....	.....	5,171,320
1879.....	.....	.....	79,600	.....	.....	5,362,372
1880.....	.....	.....	75,308	.....	.....	6,457,656
1881.....	.....	.....	100,233	.....	.....	5,179,192
1882.....	.....	.....	106,933	.....	.....	5,467,423

1883.....	128,656	.....	5,664,056
1884.....	116,359	.....	5,009,488
1885.....	106,971	.....	4,731,784
1886.....	114,198	.....	5,293,982
1887.....	111,847	.....	5,553,805
1888.....	118,213	.....	4,942,948
1889.....	143,561	.....	5,370,369
1890.....	132,061	.....	5,246,102
1891.....	122,111	.....	4,563,472
1892.....	115,469	.....	4,231,995
1893.....	115,877	.....	4,331,963
1894.....	56,024	.....	3,882,560
1895.....	64,691	.....	3,500,314
1896.....	57,953	.....	3,714,894
1897.....	71,447	.....	3,617,894
1898.....	69,963	.....	3,360,083
1899.....	69,803	.....	3,686,051
1900.....	65,330	.....	3,345,941
1901.....	68,469	.....	3,420,613
1902.....	103,260	.....	3,274,610
1903.....	98,366	.....	3,615,385
1904.....	85,373	.....	3,138,547
1905.....	90,818	.....	3,226,896
1906.....	77,331	.....	3,540,907
1907.....	58,013	.....	3,407,914
1908.....	85,812	.....	3,051,877
1909.....	146,430	.....	3,116,536
1910.....	175,996	.....	3,073,412
1911.....	81,920	.....	3,097,068

Statement of the tons of property moved on each and all the canals, etc.— (Concluded)

YEAR	Chenango	Genesee Valley	Black River	Oneida Lake	Baldwinsville	Total
1912.....	55,991	.....	.....	2,606,116
1913.....	47,262	.....	.....	2,602,035
1914.....	42,669	.....	.....	2,080,850
1915.....	31,153	.....	.....	1,858,114
1916.....	20,464	.....	.....	1,625,050
1917.....	14,821	.....	.....	1,297,225
1918.....	4,942	.....	.....	1,159,270
1919.....	4,841	.....	.....	1,238,844

STATEMENT of the tons of property moved on each and all the canals, comprising the tons of total movement

YEAR	Erie	Champlain	Cayuga and Seneca	Oswego	Black River	Total
1919.....	842,164	363,699	12,252	15,888	4,841	1,238,844
1920.....	801,221	485,598	36,936	3,959	3,720	1,421,434

STATEMENT of total movement of flour, meal and grain on all the canals from 1861 to 1920, both inclusive

YEAR	Bushels wheat	Bushels corn	Bushels oats	Bushel's rye	Bu hels barley	Bushels malt	Barrels flour	All other	Aggregate in tons
1861.....	33,171,900	25,024,643	6,105,313	976,000	2,444,083	.....	1,667,416	349,409	2,070,251
1862.....	37,579,967	27,225,643	6,550,187	967,750	2,764,916	280,182	2,102,574	393,849	2,332,928
1863.....	26,577,166	22,087,056	16,040,937	592,571	3,816,458	366,242	1,930,731	575,404	2,021,505
1864.....	19,032,067	11,086,536	15,122,937	670,168	3,232,292	563,284	1,474,582	601,395	1,437,593
1865.....	14,433,566	20,639,500	11,973,939	1,220,714	5,336,416	75,151	1,271,139	45,551	1,330,037
1866.....	10,989,800	28,904,143	12,138,250	1,751,928	7,867,041	138,212	751,870	564,633	1,680,169
1867.....	13,630,360	17,930,500	10,476,000	1,014,643	4,972,230	489,818	569,234	839,941	1,322,774
1868.....	14,425,567	18,437,100	11,927,550	783,357	3,693,083	257,039	575,900	403,528	1,350,060
1869.....	22,351,133	9,159,643	5,769,312	481,750	4,125,500	330,400	657,807	391,899	1,212,307
1870.....	21,950,800	6,893,893	7,371,312	697,143	5,132,958	698,696	509,055	243,373	1,180,267
1871.....	23,951,633	24,002,033	8,118,187	1,534,392	4,749,662	801,371	331,583	169,311	1,759,832
1872.....	13,463,433	32,241,179	5,809,938	1,477,036	5,002,543	1,578,914	190,139	152,646	1,586,249
1873.....	26,768,800	22,760,571	4,376,437	1,077,143	2,941,033	1,182,466	181,731	402,642	1,660,981
1874.....	25,738,766	18,542,964	3,713,000	293,393	4,110,584	453,000	769,759	208,881	1,500,493
1875.....	24,809,766	10,072,536	3,919,813	296,750	4,353,135	71,287	163,237	193,200	1,238,115
1876.....	13,879,200	13,044,786	3,259,188	712,464	4,030,584	1,510,639	86,019	176,432	991,197
1877.....	14,934,766	25,137,786	4,127,812	1,283,857	5,810,542	718,800	82,621	165,653	1,439,675
1878.....	28,151,866	26,249,750	5,314,313	2,307,607	3,730,583	1,031,000	54,666	172,766	1,846,742
1879.....	31,648,866	22,185,000	1,447,750	2,114,643	4,006,000	582,06	66,333	132,596	1,770,846
1880.....	32,501,733	41,307,821	1,305,812	940,714	4,436,958	8,083,4	76,537	161,989	2,304,219
1881.....	14,827,733	16,993,679	1,895,063	553,000	3,399,458	887,56	61,129	114,704	1,074,545
1882.....	21,407,196	8,988,821	1,386,250	1,549,000	4,027,083	846,824	86,777	224,204	1,097,953
1883.....	19,124,666	18,677,785	3,225,438	3,401,643	2,449,291	957,706	83,768	45,443	1,339,099
1884.....	26,346,966	7,079,143	3,193,500	2,552,214	2,708,666	707,235	67,138	186,073	1,193,346
1885.....	18,864,066	12,866,500	514,635	364,678	2,691,135	604,706	63,602	70,703	1,038,260
1886.....	33,270,966	12,670,178	454,875	108,750	5,619,916	901,941	83,296	156,801	1,445,973
1887.....	31,228,000	15,950,607	2,210,312	239,592	3,144,083	731,688	87,861	14,198	1,498,304
1888.....	19,373,366	17,846,464	4,445,562	438,143	873,208	940,176	30,463	66,639	1,116,733
1889.....	16,137,900	21,162,536	3,980,000	1,239,357	2,754,541	1,640,588	40,555	696,046	1,277,118
1890.....	11,789,700	21,998,000	2,961,437	800,500	3,268,321	1,201,658	32,046	77,573	1,158,029

Statement of total movement of flour, meal and grain on all the canals, etc.— (Concluded)

YEAR	Bushels wheat	Bushels corn	Bushels oats	Bushels rye	Bushels barley	Bushels malt	Barrels flour	All other	Aggregate in tons
1891	25,308,366	5,076,464	1,022,625	2,456,107	2,095,958	662,325	28,900	87,996	1,072,375
1892	20,690,933	5,366,750	4,527,750	151,285	2,149,833	816,650	45,176	58,633	992,708
1893	36,446,600	8,912,965	1,498,375	232,785	2,207,250	309,118	22,574	44,155	1,435,540
1894	30,116,266	9,942,937	6,302,937	18,946	3,720,625	388,058	27,047	34,344	1,388,859
1895	3,315,500	3,405,857	5,892,437	7,322	3,255,458	166,000	20,333	15,840	583,754
1896	13,620,033	3,641,821	12,357,187	2,757,800	4,581,917	682,764	73,741	16,139	916,072
1897	6,001,168	11,170,572	3,146,562	2,370,964	4,180,708	1,037,941	29,635	12,214	731,213
1898	2,332,853	13,008,857	4,765,250	276,607	3,746,083	1,565,941	17,166	4,535	366,774
1899	9,414,000	3,309,643	5,858,312	211,821	3,276,125	473,823	11,546	1,087	562,740
1900	4,610,083	6,751,670	2,277,258	374,224	2,633,480	533,636	10,866	972	447,798
1901	7,165,140	3,111,192	5,533,000	368,796	2,311,597	471,050	6,926	1,665	465,436
1902	9,731,281	1,178,650	2,792,447	680,817	3,138,100	645,000	12,302	1,400	475,863
1903	4,794,400	6,833,964	3,995,375	429,536	2,993,208	731,706	9,954	2,369	495,005
1904	2,375,334	2,442,178	5,176,500	84,321	3,692,750	125,559	12,009	1,004	346,901
1905	3,669,500	936,536	5,902,312	132,750	4,035,292	362,648	2,130	1,437	337,815
1906	6,355,434	4,800,464	6,645,375	142,571	5,020,708	418,706	2,778	5,992	561,896
1907	8,392,567	3,300,821	4,000,062	76,950	3,837,583	817,706	1,657	341	513,754
1908	6,122,200	2,545,036	3,813,190	75,428	2,000,292	708,176	157	25,500	378,318
1909	6,395,134	2,837,821	4,972,687	217,893	2,103,166	698,471	805	23,700	420,125
1910	5,974,967	4,390,607	5,275,500	85,000	1,851,825	869,118	129	900	448,481
1911	4,792,500	2,535,857	3,888,500	89,892	835,708	858,000	269	9,734	314,476
1912	2,612,767	189,714	2,287,187	.....	1,262,667	760,176	.....	51,100	165,050
1913	2,942,634	858,856	3,356,952	51,875	1,647,292	698,176	.....	2,700	219,146
1914	3,086,167	108,300	4,060,795	75,575	1,087,607	1,392,270	.....	.....	212,617
1915	3,159,267	139,536	2,619,562	16,500	1,186,250	1,325,117	.....	67	192,059
1916	2,221,300	.....	1,141,062	.....	1,173,917	1,220,470	.....	.....	133,819
1917	547,400	.....	.....	.....	571,885	224,370	.....	.....	33,949
1918	1,040,669	.....	25,000	.....	69,926	.....	212,186	.....	81,092
1919	534,267	36,000	3,285,000	1,976,571	629,167	.....	41,426	.....	144,514
1920	1,900,000	.....	74,000	1,770,420	153,292	248,118	139,901	.....	132,050

STATEMENT of foreign exports of flour and grain from New York from 1861 to 1920

YEAR	Barrel wheat flour	Barrels rye flour	Barrels corn meal	Bushels wheat	Bushels corn	Bushels oats	Bushels barley	Bu hls rye	Bushels peas and beans	Bushels malt	Aggregate in tons
1861	3,110,646	11,807	108,385	28,889,914	12,456,265	160,875	3,927	1,000,405	139,284		1,599,261
1862	2,961,518	8,397	132,606	25,564,755	12,020,848	210,669	42,061	1,104,549	113,819		1,477,221
1863	2,527,338	5,461	140,561	15,424,889	7,533,431	125,566	52,439	416,369	110,911		980,675
1864	1,918,393	2,840	105,142	12,193,433	8,446,831	42,135	150	588	186,154		614,642
1865	1,402,144	2,673	127,600	2,527,626	2,549,670	94,567		198,348	88,899		322,451
1866	900,084	7,552	149,773	522,669	11,079,394	1,190,583	1,329,842	248,646	282,992		506,520
1867	871,089	11,754	151,669	4,468,774	8,147,813	144,665	886,893	473,260	680,763		531,204
1868	1,003,968	7,459	191,011	5,762,037	5,989,225	94,707	90	152,993	180,226		481,902
1869	1,584,211	5,283	137,627	18,240,586	1,637,586	49,393		142,524	123,156		788,075
1870	1,950,234			18,446,035	487,792	28,986		92,431	151,102		785,249
1871	1,660,400	4,200	123,500	21,968,600	13,040,600	47,300	98,700	525,800	90,900		1,238,053
1872	1,216,082	6,399	194,040	13,144,400	25,292,200	31,739	22,066	668,030	156,609		1,378,412
1873	1,655,331	8,249	176,756	27,801,800	15,587,500	49,700	19,400	1,069,100	143,500		1,504,771
1874	1,177,608	8,473	168,603	34,791,249	19,000,995	122,528	3,560	641,661	463,193		1,863,297
1875	1,954,100	5,700	173,400	26,192,700	12,938,700	138,800	1,500	206,900	364,900		1,405,544
1876	1,887,441	5,778	172,042	24,144,033	16,610,232	620,536	88,097	1,336,293	716,458		1,483,402
1877	1,537,106	7,799	220,939	21,355,774	25,373,942	257,634	2,412,509	2,049,796	487,031		1,675,902
1878	2,630,437	4,375	202,788	55,019,389	27,440,771	3,658,905	1,518,922	4,048,841	476,184		2,949,042
1879	3,684,366	6,049	150,178	61,538,861	35,319,789	521,406	1,147,867	3,941,638	393,153		3,363,953
1880	4,215,415	5,205	230,716	61,908,029	49,875,430	427,959	254,833	2,181,183	654,069		3,825,168
1881	4,440,114	3,264	196,965	41,788,182	31,731,995	431,426	15,477	1,068,928	218,370		2,687,989
1882	4,623,965		112,316	37,620,153	9,012,373	170,586		6,616	1,980,586		1,967,989
1883	4,330,146			20,049,200	22,222,754	162,665		8,939	4,467,852		1,819,284
1884	3,907,021		530	28,697,362	11,962,158	2,456,219	76,343	4,846,088	770,720		1,413,086
1885	3,763,029	3,863	152,488	16,286,800	26,259,228	6,198,302	408	493,319			1,759,840
1886, not reported											

Statement of foreign exports of flour and grain from New York from 1861 to 1920 — (Concluded)

YEAR	Barrels wheat flour	Barrels rye flour	Barrels corn meal	Bushels wheat	Bushels corn	Bushels oats	Bushels barley	Bushels rye	Bushels peas and beans	Bushels malt	Aggregate in tons
1887, to Dec. 1.	3,731,523		105,735	40,893,437	11,920,425	142,938	46,189	356,817	185,877		2,193,962
1888, to Dec. 1.	3,476,991		107,589	12,224,374	12,101,098	112,069	48	6,237	182,511		1,098,641
1889, to Dec. 1.	3,056,855		135,006	9,627,444	27,380,443	885,257	226	809,405	244,246		1,449,719
1890.	3,417,399		136,432	12,549,946	24,550,165	9,301,046	275,313	1,351,726	371,814		1,652,144
1891.	3,798,076		160,533	46,514,096	12,819,911	3,205,466	1,869,569	4,448,675	668,069		2,421,816
1892.	6,034,260		163,765	45,259,966	18,293,352	2,650,639	235,206	3,254,849	663,927		2,698,507
1893.	6,032,903	114	159,149	38,017,933	12,802,039	5,177,007	257,744	439,459	473,796		2,282,685
1894, to Dec. 1.	5,814,657		178,346	21,612,790	10,329,787	219,844	300	208			1,581,391
1895, to Dec. 1.	4,009,157		144,631	18,348,193	17,891,140	1,302,900	42,743	246			1,521,886
1896, to Dec. 1.	4,264,302		140,449	16,864,330	16,845,658	14,794,568	6,162,012	3,208,44			2,027,759
1897.	4,699,767		272,975	25,055,896	31,206,506	34,714,008	8,916,452	5,797,517			3,151,64
1898.	4,738,214		366,663	49,909,158	39,632,273	23,765,046	2,451,271	8,307,944	1,151,811		3,864,551
1899.	4,741,035		407,691	26,930,386	40,439,477	12,943,15	7,619,862	2,745,976			2,960,070
1900.	4,487,306		444,943	18,259,428	43,532,024	8,819,441	4,833,493	1,479,390			3,597,900
901.	4,092,711		317,920	27,140,385	23,831,380	8,457,228	233,907	1,070,006			2,128,169
1902.	4,149,129		187,004	19,955,526	3,052,715	1,803,663	341,072	2,316,417	327,502		1,264,173
1903.	4,281,024		439,174	9,435,934	22,063,881	669,423	308,616	1,310,550	321,243		1,475,104
1904.	2,672,766		250,204	425,874	9,433,383	269,670	2,066,155	143	301,340		655,536
1905.	2,560,938		277,154	3,666,201	27,283,344	6,489,616	5,304,708	271,010	288,734		1,426,751
1906.	3,038,838		205,203	14,913,686	20,779,730	5,218,147	4,310,610	472,489	207,783		1,586,006
1907.	3,045,125		197,047	22,769,338	21,253,050	280,751	133,580	1,128,070	137,588		1,651,730
1908.	3,410,944		173,934	20,578,026	4,886,576	145,341	141,591	1,227,842	277,540		1,182,657
1909.	2,991,063		136,187	12,587,537	4,149,506	305,355	238,567	187,496	104,593		850,554
1910.	2,963,869		197,692	2,449,860	7,242,901	283,675	16,984	16,765			621,218
1911.	3,587,628		201,080	7,343,573	12,034,740	464,810		95			990,700
1912.	3,511,743		226,871	16,720,248	4,971,763	4,492,601	2,151,846	172,876	230,040		1,179,854

1913.....	4,023,661	214,970	25,602,631	5,930,564	849,160	2,082,925	671,521	184,585	1,494,222
1914.....	4,852,089	165,945	28,799,431	3,545,100	6,868,001	1,444,165	1,824,935	.....	1,700,915
1915.....	7,120,089	266,894	50,771,735	9,309,568	15,714,239	4,747,224	1,783,253	.....	2,993,587
1916.....	4,543,731	217,289	39,755,160	6,262,866	8,412,399	9,580,856	578,870	.....	2,302,950
1917.....	3,948,010	519,169	28,053,452	12,474,570	17,842,006	5,793,616	2,848,231	.....	2,177,690
1918.....	6,105,619	579,945	19,289,688	6,841,565	18,820,923	6,461,366	4,330,386	.....	2,002,897
1919.....	7,799,401	599,367	39,131,660	1,196,399	26,641,971	8,334,279	12,425,503	.....	3,021,533
1920.....	6,592,000	.....	45,593,000	2,919,000	8,423,000	4,442,000	21,724,000	77,000	3,012,415

TOTAL GRAIN received at Buffalo each year since 1836

YEAR	Wheat, bushels	Corn, bushels	Oats, bushels	Rye, bushels	Barley, bushels	Flour, barrels	Grain, including flour, bushels
1836.	304,990	204,355	28,640	1,500	4,876	139,178	1,239,351
1837.	450,359	94,490	2,533	3,260	.....	126,805	1,184,685
1838.	933,117	34,148	6,577	909	.....	277,620	2,302,887
1839.	1,117,262	.....	.....	.....	.....	294,125	2,302,851
1840.	1,004,561	71,337	.....	.....	.....	597,142	4,061,598
1841.	1,635,000	201,031	14,144	2,150	.....	730,040	5,692,525
1842.	1,555,420	453,520	.....	1,268	4,710	734,408	5,687,468
1843.	1,827,241	223,966	2,489	1,332	.....	917,517	6,642,610
1844.	2,174,500	137,978	18,017	456	1,617	915,030	6,910,719
1845.	1,770,740	54,200	23,300	.....	.....	746,750	5,581,790
1846.	4,744,184	1,455,258	218,300	28,250	47,530	1,374,529	13,366,167
1847.	6,489,100	2,862,800	446,000	70,787	.....	1,857,000	19,153,187
1848.	4,520,117	2,298,000	560,000	17,789	.....	1,249,000	14,641,018
1849.	4,943,978	3,321,651	362,384	.....	.....	1,207,435	14,665,189
1850.	3,681,347	2,593,378	357,580	.....	3,627	1,103,039	12,059,551
1851.	4,167,121	5,988,775	1,140,430	10,652	142,773	1,258,224	17,740,784
1852.	5,549,778	5,136,746	2,596,231	112,251	497,913	1,299,213	20,390,500
1853.	5,420,043	8,065,793	1,580,655	107,152	401,098	975,557	15,956,525
1854.	5,510,782	10,108,983	4,401,739	177,066	313,757	739,756	22,252,288
1855.	8,022,126	9,711,430	2,693,222	299,591	62,304	937,761	24,472,277
1856.	8,465,671	9,633,277	1,733,382	245,810	46,327	1,126,048	25,753,965
1857.	8,334,179	5,713,611	1,214,760	48,536	37,844	845,953	19,578,090
1858.	10,671,550	6,621,688	2,275,231	125,214	308,374	1,536,019	26,812,982

1859.....	9,234,652	3,113,653	394,502	124,693	361,550	1,420,383	21,530,722
1860.....	18,502,615	11,386,217	1,209,594	80,822	262,158	1,122,335	37,073,115
1861.....	27,105,219	21,024,657	1,797,905	337,764	313,715	2,159,591	61,460,601
1862.....	30,325,831	24,388,627	2,624,982	791,564	428,124	2,846,022	72,872,454
1863.....	21,240,348	20,086,912	6,322,187	422,309	641,440	2,978,088	64,735,510
1864.....	17,677,519	10,478,681	11,682,637	633,726	465,097	2,028,520	51,177,146
1865.....	13,437,888	19,840,901	8,494,799	877,677	820,563	1,788,393	51,415,188
1866.....	10,479,694	27,894,798	10,227,472	1,245,485	1,006,384	1,313,543	57,388,087
1867.....	11,879,685	17,873,638	10,933,166	1,010,693	1,802,598	1,440,056	59,700,060
1868.....	12,555,215	16,804,067	11,492,472	947,323	637,124	1,502,731	49,949,856
1869.....	19,228,546	11,549,403	5,459,347	126,093	651,339	1,598,487	45,007,163
1870.....	20,556,722	9,410,128	6,846,983	626,154	1,821,154	1,470,391	46,013,096
1871.....	22,606,217	26,110,769	9,106,409	1,095,009	1,942,928	1,278,077	67,155,742
1872.....	14,304,942	34,643,180	6,050,045	301,809	3,088,925	762,502	62,260,232
1873.....	30,618,372	28,550,828	5,972,346	906,977	1,322,507	1,259,205	73,636,595
1874.....	29,778,572	248,974,540	5,396,781	167,301	1,154,948	1,693,585	70,030,552
1875.....	32,987,656	22,593,891	8,494,124	222,126	906,889	1,810,402	74,246,726
1876.....	19,324,612	20,939,853	2,397,257	761,795	2,615,081	807,210	50,074,648
1877.....	23,284,405	33,362,866	4,279,229	1,155,003	1,652,568	693,044	66,199,291
1878.....	35,419,136	35,133,853	5,122,972	2,135,007	1,375,184	911,980	84,046,052
1879.....	37,788,501	32,990,993	1,101,974	1,884,802	600,740	897,105	78,865,354
1880.....	40,510,229	62,214,617	649,350	743,451	355,925	1,317,911	112,042,927
1881.....	18,495,320	34,434,830	3,565,737	22,210	282,510	1,051,250	62,062,895
1882.....	26,050,030	21,664,530	1,620,170	767,360	701,500	1,199,350	56,830,340
1883.....	24,105,420	34,775,040	3,226,900	2,830,830	583,800	2,071,570	76,079,930
1884.....	2,469,710	18,538,340	3,174,730	2,247,060	534,130	2,615,510	70,041,520
1885.....	27,130,400	21,028,230	767,580	309,370	577,230	2,993,280	64,260,460
1886.....	41,340,440	29,155,370	1,014,670	126,630	787,730	4,582,190	95,425,790

Total grain received at Buffalo each year since 1836 — (Concluded)

YEAR	Wheat, bushels	Corn, bushels	Oats, bushels	Rye, bushels	Barley, bushels	Flour, barrels	Grain, including flour, bushels
1887.	48,111,180	30,199,490	4,656,280	304,540	1,459,420	4,001,360	104,737,710
1888.	27,548,110	36,422,270	7,897,310	513,720	842,090	5,244,930	99,448,150
1889.	26,051,600	47,127,150	4,309,800	1,906,760	1,474,570	5,480,710	118,273,430
1890.	14,868,630	44,136,660	13,860,780	1,281,030	5,165,700	6,245,580	120,540,700
1891.	76,945,960	29,616,390	12,454,150	5,603,400	4,373,120	7,093,340	164,459,720
1892.	78,243,560	32,377,780	16,500,250	1,316,530	4,600,970	9,746,120	181,769,690
1893.	68,243,750	40,539,796	20,700,150	644,590	5,791,460	10,562,090	188,730,370
1894.	50,194,130	29,078,520	15,560,230	501,195	8,625,090	11,488,530	161,401,815
1895.	46,484,510	38,244,960	21,943,680	787,340	10,253,440	8,971,740	162,936,630
1896.	54,411,207	47,811,210	40,107,499	4,404,354	16,697,744	10,384,184	214,352,734
1897.	50,584,719	55,553,741	59,815,210	6,631,405	12,858,741	11,339,298	242,140,306
1898.	83,872,837	67,950,073	45,501,233	6,821,694	11,391,332	10,371,653	273,242,210
1899.	48,232,016	53,503,404	26,423,358	2,084,643	15,008,426	8,810,097	194,293,112
1900.	47,826,458	63,192,660	28,422,256	1,314,743	9,868,196	11,463,079	209,239,824
1901.	61,294,248	30,539,848	21,438,545	1,256,284	7,687,239	11,053,439	187,909,664
1902.	62,452,696	22,487,454	15,891,387	3,716,628	8,969,865	12,026,616	184,759,518
1903.	40,455,328	43,364,979	30,976,088	3,416,983	10,681,655	11,243,027	196,653,957
1904.	26,270,000	27,898,000	19,124,000	1,736,600	15,665,000	6,160,965	131,642,842
1905.	40,436,616	32,745,046	25,733,094	688,450	14,618,495	10,201,100	177,496,229
1906.	55,544,832	25,976,478	23,951,155	1,243,640	13,681,058	10,279,384	187,403,448
1907.	66,658,138	28,477,767	11,272,858	1,313,154	11,264,101	9,759,676	181,237,178
1908.	63,857,080	13,779,988	10,455,716	856,944	11,649,064	7,818,248	153,336,678
1909.	61,084,797	16,027,578	13,110,014	655,684	12,765,503	7,899,292	152,896,845

1910.....	50,450,911	22,992,368	12,366,891	336,471	11,207,763	7,231,580	138,229,078
1911.....	67,495,523	30,384,745	9,501,000	690,692	9,349,412	7,054,640	157,295,756
1912.....	108,225,504	12,750,250	10,580,150	1,250,215	12,176,925	7,584,753	182,909,809
1913.....	114,129,472	18,960,144	20,517,487	1,075,242	17,455,376	9,481,131	219,542,377
1914.....	100,442,591	14,309,078	11,858,666	4,268,738	13,229,162	9,100,752	189,612,083
1915.....	116,670,198	17,281,413	10,969,616	3,787,863	13,512,782	8,429,126	254,367,502
1916.....	138,668,781	3,527,207	22,036,301	1,477,346	11,709,053	6,957,432	212,205,848
1917.....	94,924,407	1,495,247	30,283,190	3,458,503	10,271,245	5,021,940	172,136,346
1918.....	68,267,375	2,027,920	13,644,266	7,992,409	3,244,626	6,607,997	131,066,678
1919.....	56,395,093	50,000	14,207,877	12,988,760	9,986,137	5,155,755	120,250,902
1920.....	74,395,512	3,826,776	5,151,499	16,676,107	4,468,705	4,510,408	127,070,639

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STATE OF NEW YORK

REPORT

OF THE

Special Joint Committee

ON

Taxation and Retrenchment

TAXATION SECTION



ALBANY
J. B. LYON COMPANY, PRINTERS
1921

SPECIAL JOINT COMMITTEE ON TAXATION AND RETRENCHMENT

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REPORT OF THE SPECIAL JOINT COMMITTEE ON TAXATION AND RETRENCHMENT

January 1, 1921

To the Senate and Assembly:

When the Legislature assembled in January, 1919, the State government was facing a serious revenue problem. The situation was aggravated by the critical financial situation which the cities also faced. The very sharp increase in the cost of personal services, supplies and materials, and the loss of excise revenues had brought both the State and the cities of the State to a financial crisis more serious than any that has existed since the Civil War. It was recognized on all sides that nothing short of heroic measures were demanded to meet the situation and as a result this special joint committee was appointed on January 23d, "to inquire into and investigate the subject of taxation and to report remedial legislation on or before March 15th."

As soon as this committee was organized, we recognized the far-reaching and complicated character of the problems which had been entrusted to us for examination and report. We, therefore, associated with the committee as counsel and as advisors the experienced tax lawyers of this State and leading tax experts, not only from this State, but from other states as well. As a means of making the most of the brief time allowed the committee, we requested our advisors and counsel to sit with the committee and to take part in our deliberations. We feel that this innovation has more than justified itself by the result.

After the most careful consideration your committee decided unanimously to recommend the passage of the present State Income Tax Law. In spite of the opposition to this measure on the part of certain highly respected advisors of the committee, we were convinced that there was no other method of meeting the situation on a thoroughly sound and practical basis. Taxes are never popular, and new taxes are particularly resented. In spite of this fact, the people of the State have recognized the fact that additional revenues were necessary and that the income tax was the fairest way of raising the needed funds.

As was to have been expected, a number of minor defects in the State Income Tax Law were discovered after its passage. During the latter part of 1919 and early in 1920 these matters were considered by your committee and the necessary changes enacted during the 1920 session of the Legislature.

It is the purpose of this report to outline briefly the more important problems which the committee has faced during the past two years and to explain the underlying purposes which have guided it in the development of the New York State Income Tax Law.

The work of this committee would have been impossible without the loyal assistance which we received from counsel and advisors. The committee desires to express its appreciation particularly of the services rendered by Messrs. Laurence A. Tanzer, Robert C. Cumming, Wallace McClure, Charles J. Tobin, Harold G. Aron and William F. Dowling, who acted as counsel to the committee; by Professor Edwin R. A. Seligman, Professor Charles J. Bullock, Hon. Walter H. Knapp, Hon. John J. Merrill and Mr. William P. Capes, who served as tax advisors; and by Dr. Luther Gulick, who acted as chief of the committee's staff in the editing and preparation of this report. The New York State Conference of Mayors and other city officials, through its committee on taxation, headed by Mayor William J. Wallin of Yonkers assisted largely in our work. This was also true of the Advisory Council of Real Estate interests of New York, the New York State Tax Association, and the National Tax Association. To these organizations and to their representatives who worked with this committee, we desire to express our indebtedness and our appreciation.

FREDERICK M. DAVENPORT,
FRANKLIN W. JUDSON,
J. A. MCGINNIES,
JOHN J. BOYLAN,
PETER A. ABELES,
EDWARD J. FLYNN.

**REPORT OF THE SPECIAL JOINT COMMITTEE ON
TAXATION AND RETRENCHMENT**

TAXATION SECTION

Transmitted to the Legislature, January 1, 1921

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CHAPTER I

The Development of the New York State Tax System

Dutch Origin

The tax system of the State of New York is the result of three hundred years of history on this continent. The Dutch who settled and controlled New Amsterdam and New Netherlands, which now form New York State, were primarily traders. New Amsterdam was the distributing center for goods imported from Holland. It was the key to the trade of the Hudson Valley and lay as well on the direct route from New England to Virginia. It was only natural under these conditions, for the public revenues to be derived from indirect taxes, from duties on import, export and tonnage, and from excise, a plan which was adopted the more readily as this policy was extensively developed in the mother country at the time. Direct taxes were resorted to only when the revenues derived from these indirect sources became deficient. When this became necessary, the effort was first made to solicit voluntary contributions from "each according to his condition," and when this proved only partly successful, definite individual quotas were assigned, and payment was made compulsory for the "disaffected or ill-disposed persons." This system of contributions and assessed quotas gradually developed into a direct tax on the person, his ability to pay being measured by his property. This development was practically completed by 1654, when Peter Stuyvesant secured from the home government authority to lay and collect "an honest and fair tax upon real property, as land, houses or lots, and milch cows or draught oxen."

English Influence

The influence of the English was very pronounced in the early development of the New York tax system. Throughout New England direct taxes were customary from the earliest days. In developing the direct property tax as a new source of revenue, the New Amsterdam Dutch were unquestionably following the lead of the English colonists. In 1650 Secretary Von Tienhoven studied the New England taxes and reported that "all the prop-

erty and means of the people, as well of the highest as of the lowest, were appraised by the magistrates and taxed, according to each man's ability, for the payment of the governor, deputy governor, magistrates, secretaries, marshals, constables, military officers, ministers and schoolmasters, for the erection of churches, schoolhouses and town edifices, for the repairs of bridges, for the erection of ordinaries for travelers of the University of Boston, for the support of the General Assembly and of the General Court." A further evidence of the influence of the New England colonists is to be found in sections of Long Island settled largely from Connecticut and Massachusetts Bay in which direct property taxes were in force many years before New Amsterdam was forced to adopt them.

Under the Colonial Assembly

With the establishment of the Colonial Assembly in 1683, the general property tax became a recognized part of the tax system of the colony, and while it was relied upon only occasionally by the colonial government, it became a regular annual source of revenue for a number of the local units. In New York city and in several Long Island towns the assessment rolls from this period are still preserved. The direct property tax was, however, of comparative unimportance until well along in the eighteenth and nineteenth centuries. In New York city, for example, toward the end of the eighteenth century, the bulk of the revenues were received from the rental of city-owned property — docks, market, ferry, slaughter-house, water-let, land, rope-walk, powder magazine, derrick, weigh house, and brick-yard. Very considerable amounts were collected from tavern licenses and from fines and fees, the bulk of which went directly to the officials in lieu of salaries. Before the English control of the city, large revenues were derived from the sale of the freedoms of the city which were made a condition of doing business in the city.

Effect of Federation

The Revolution and the establishment of the Confederation made little immediate change in the tax or revenue system of

the state or its local divisions. The New Federal Constitution, however, introduced a very important factor in that it deprived the state of the right to collect import, export and tonnage duties, and opened the way for federal internal revenue taxes in competition with the state and municipal levies. The result of this was to force the states and the cities to rely more extensively upon the direct property tax. The outstanding difficulties of the general property tax became apparent as soon as it was utilized to any considerable extent, and many and varied efforts were made in the effort to secure impartial assessments, the full disclosure of personal property and fair equalization.

Economic Development

The development of the State of New York was tremendously rapid after the close of the War of 1812. The increase of population between 1810 and 1830 was phenomenal, especially in the agricultural regions. By 1840 two-thirds of the population was engaged in agriculture, and the state ranked first in the Union in the production of barley, oats, buckwheat, hops, potatoes, hay and wool. The milling industry was centered in Rochester and Oswego until the middle of the century when it was drawn by western wheat to Minneapolis and St. Paul. Manufacturing plants sprang up as if by magic until New York overtook and surpassed Pennsylvania and Massachusetts by 1830. The textile industry and the factory system were just beginning in 1812. By 1840 there were 323 woolen mills and 117 cotton mills, and home industry was very extensive. The development of means of communication was also marked. Over 350 turnpike and bridge companies were created by the Legislature from 1799 to 1819. Private canals and later State canals were constructed, so that by 1840 there were 840 miles of canals. Steam navigation, beginning with Fulton's experiment of 1807, was commercially successful by 1814, and was rapidly extended after that time. Steam railroads, which were first constructed in 1831, made such progress that by 1840 575 miles of track had been completed.

The development of the State was continued with even greater vigor during the succeeding years. While the West took the

leadership from New York in agriculture and in the milling industry, the tremendous growth of our urban centers and the development of modern manufacturing have been so phenomenal that the State of New York is now the financial and commercial center of the country and exerts an important influence in international finance.

New Wealth

As a result of the forces that we have just outlined, the State of New York developed from a sparsely settled agricultural and trading settlement to a densely populated industrial and commercial State. In the transition new types of wealth have been created; enormous reservoirs of intangible personal property and tremendous corporations have arisen; public franchises have come into existence; the entire banking system has been erected. Parallel with this development there have been no less startling social changes. The industrial era and immigration have created a large class of wage earners, while the development of corporations with their staffs has created a new prosperous but salaried class. Political changes of importance have naturally occurred. The property qualification for voters has been abolished and more recently women have been admitted to the suffrage. The vast extension of the direct and regulatory services of State and local government have not only increased the demand for public revenues, but have also changed the character of government.

Effect on Tax System

These economic, social and political changes have resulted in a gradual development of the tax system of the State. The original general property tax was gradually expanded as new types of property developed. When corporations arose, the effort was made to tax them just like individuals. Intangible personal property, represented by stock, bonds and mortgages, was treated like horses and cattle as far as taxation was concerned. When the new salaried and professional classes arose, the effort was still made to distribute the tax burden on the basis of property ownership though these groups held almost no property.

From time to time changes were made in the tax system to fit it to the new conditions. In 1823 corporations were specifically recognized for purposes of taxation, and were to be assessed for their real estate and capital stock. In 1853 it was also provided that corporate surpluses should be taxed. In 1860 and 1881 very extensive changes were made in the tax system as a means of requiring the corporations to pay a greater share of the tax burden. The annual franchise tax on corporations was imported from Pennsylvania in 1880 and as a part of the same tax reform movement franchise taxes were placed upon transportation, transmission and insurance companies. The franchise tax upon public utilities and elevated railroads was added in 1896. The inheritance tax first went into effect in 1886. In 1899 the tax on special franchises was established as a result of Governor Roosevelt's personal pressure upon the Legislature and the public demand for the adequate taxation of the right to use the streets. The bank stock tax enacted in 1901 removed bank stock from taxation under the general property tax. In 1905 the same policy was adopted with regard to mortgages, and a recording tax was established in place of their taxation as personal property. The next significant change in the State tax system came in 1917 with the establishment of a tax on manufacturing and mercantile corporations based upon their net income in lieu of personal property and capital stock taxes previously imposed under the general property tax. In 1919 this tax was extended to include all domestic and foreign corporations except those already taxed under certain other provisions, holding companies and real estate companies. In 1919, through the efforts of this committee, the personal income tax was adopted.

Revisions to Meet Changing Conditions

It will be seen from this brief outline of the development of the State tax system that the effort has been made throughout the entire process to revise the tax system to meet the changing social and economic conditions of the State. New taxes have been devised to meet new kinds of property or to reach new social groups and thus to secure a fairer distribution of the grow-

in order that the average citizen may find the tabula-

tion useful. We trust also that the table may be of genuine value to the members of the Legislature, as it has already been to the members of your Committee.

The relative importance of the various taxes is indicated by the amounts derived from them. An effort has been made in the tabulation to set this forth segregating the amount which will go to the State and the amount which will go to the localities on the basis of estimates for 1921. A number of minor license taxes have been omitted from the tabulation because they are more police regulations than they are taxes. Among these are the license prescribed for private detectives and detective agencies which produced \$12,750 during 1920, and the steamship ticket agency license which produced \$825.

As a means of explaining the interrelation of the various taxes, notes have been added to the tabulation. It will be seen that the taxes are dovetailed in the most intricate manner. Our tax system must be considered as a unit, and any proposed change must be studied with the utmost care to determine its effect upon the entire structure.

NOTE.—For a more complete study of the development of the state tax system see: "History of the New York Property Tax" by J. C. Schwab; "The Development of Corporation Taxation in the State of New York" by M. H. Hunter; "Financial History of the State of New York" by Don C. Sowers; "Taxation in New York State" by Frederick David Bidwell.

CHAPTER II

Proposals and Suggestions

The first inquiry that your committee undertook in 1919 was to ascertain if the then existent statutes, more particularly those termed indirect tax laws, could be changed or modified so as to meet the necessary budgets of the state and localities. The committee sought interviews from all interested on the subject and called hearings at the instance of civic bodies and their representatives. The State Tax Commissioners were heard in much detail, both President Walter H. Knapp and Commissioner John J. Merrill representing the Commission, testified before the committee. Their most suggestive proposal was that of a state income tax, which has been recommended by them in their report to the Legislature for the year 1918.

The committee heard Mr. Alfred E. Marling, President of the Chamber of Commerce of the City of New York, and Mr. Walter Lindner, chairman of the law committee of the Advisory Council of Real Estate Interests, who submitted a proposed income tax which was examined carefully.

A special committee of the State Bar Association in examining the general subject of taxation reported favorably on an income tax.

A subcommittee of the New York State Conference of Mayors and Other City Officials composed of Mayor William J. Wallin of Yonkers; City Treasurer Joseph C. Wilson of Rochester; J. Frank Zoller, chairman of the tax committee of the State Bar Association; Commissioner of Finance Charles M. Heald of Buffalo; with William P. Capes as secretary, submitted for the consideration of the committee the following suggestions:

1. A small tax levied by the State on the incomes of individuals, the revenues obtained to be divided 20 per cent to the State and 80 per cent to the localities distributed in accordance with the equalized value of the real estate.
2. Revision of the Emerson Tax Law so as to make it applicable to all corporations except those excluded by section 210 of the State Tax Law.

3. Enactment into law of a business tax imposed upon partnerships and individuals in business and measured by the net income arising from the business, to be divided between the State and the localities.

4. A repeal of the existing tax upon personal property.

5. Inasmuch as the Emerson Law and the proposed business tax upon partnerships and individuals in business involve exemptions from existing personal taxes as well as from taxes upon business, while the income tax involves only the exemption from taxation of personal property, the rate on corporations, partnerships and individuals in business as a combination should be double the tax on individual incomes.

Jacob A. Cantor, Esquire, chairman of the tax department of the City of New York, appeared before the committee on February 20, 1919, and stated that he believed in personal taxation; that if a listing system were established the present law could be enforced. He urged that the rate on personal property should be reduced to 1 per cent, or even one-half of 1 per cent, with a deduction of only actual indebtedness and that in the taxation of personal property the residence of the owner should be disregarded and all property should be assessed wherever located.

Mr. Stephen Tyng, president of the Real Estate Board of New York, appeared and asked that real estate interests be treated in a manner similar to other taxpayers.

Mr. Stewart Browne, president of the United Real Estate Owners Association, stated that his solution would be to repeal every tax exemption, except to religious and philanthropic corporations, so far as the municipality is concerned. He urged also that the tax on real estate be established at a fixed rate.

Mr. Walter Stabler, comptroller of the Metropolitan Life Insurance Company, expressed his personal belief that the Federal Income Tax Law and the success with which it had been collected should be an example to the State for doing something of the same kind.

Mr. Lawrence McGuire, chairman of the ways and means committee of the Real Estate Board, suggested a tax on personal property, and informed the committee that there were sixty billions of

such property in the city of New York on which there had been paid only \$3,400,000 as against a real estate assessment of eight billions, with a tax paid of \$204,000,000.

Mr. Robert E. Dowling advocated a low personal property tax, not an income tax, and stated he felt an income tax would be unpopular.

Mr. Nathan Hirsch, chairman of the Mayor's Committee on Taxation, recommended:

1. Amending the Tax Law so as to more clearly define personal property with reference to public stocks, stocks and moneyed corporations, thus enlarging the scope of the term "personal property."

2. Amending the Greater New York charter so as to provide for a tax limitation on real estate of 2 per cent, to become effective on January 1, 1922.

3. Reducing the tax on personal property to one-half of 1 per cent.

4. Compelling all taxpayers having personal property of more than \$2,000 to file reports with the department of taxes under oath, with penalty for failure to file or for making false returns.

5. Placing a tax of one-half of 1 per cent on all insurance premiums collected within the state.

6. Placing a tax of one-twentieth of 1 per cent on all bank deposits; the tax to be paid by the bank or trust company.

7. A new state income tax.

Camptrroller Craig of the City of New York opposed a State income tax, as well as a limited tax on real estate, and urged a flat rate on personal property of one-half of 1 per cent, with a compulsory return to be filed by every one having personal property in excess of \$3,000. He suggested that in the City of New York the personal property tax to be made payable from four to eight weeks in advance of the time when the tax on real estate is fixed, so the city would have the actual cash in hand before the local authorities determine the tax on real estate; the tax on real property to be then based upon whatever the balance indicates is required to meet the expenditures of the State and local government.

State Comptroller Travis appeared before the committee on February 12, 1919, and stated that he was opposed to an income tax and urged as a substitute as necessary revenue measures the following:

1. That the Inheritance Tax Law be amended so as to provide reciprocal provisions in place of the existing statute as to the exemption of bequests to educational and charitable corporations located outside of this State.
2. That the Investment Tax Law be amended and the yield increased by at least four millions; that the terms be made mandatory and penalties be provided for failure to pay.
3. A moderate upward revision of the tax or license on vehicles would yield two million and a half annually.
4. A tax on the business of trafficking in non-intoxicating liquors, to produce six million.
5. That the organization corporation tax be doubled which would give an additional yield of one million.
6. That the Stock Transfer Tax Law be amended so as to include within its provisions shares of stock borrowed, as in the federal act, and also to require New York corporations to keep their books within the State. These changes would yield \$600,000 annually.
7. That the so-called Emerson Act be extended to business corporations generally, associations and partnerships, and that the rate be increased to 5 per cent, which would give an additional yield of \$20,000,000.
8. An increase in the rate on banks and trust companies and surplus of savings banks from 1 to $1\frac{1}{4}$ per cent, to yield \$2,375,000.
9. Causing serial bonds to be taxed and limiting our exemptions on bonds to federal, State and municipal securities. This change to yield \$2,000,000.

The committee gave careful consideration to the model system of state and local taxation adopted by the National Tax Association. The committee of the National Tax Association which had this work in hand was composed of Professor Charles J. Bullock of Harvard University as chairman; Thomas S. Adams of Yale

University, chairman of the Advisory Board on Federal Taxation and former tax commissioner in Wisconsin; Charles V. Galloway, State Tax Commissioner of Oregon; Samuel T. Howe of the Kansas Tax Commission; Celsus P. Link of the Colorado Tax Commission; Samuel Lord of the Minnesota Tax Commission; Ogden L. Mills, New York city; Thomas W. Page of the University of Virginia; A. C. Rearick, attorney, of New York city; and W. L. Tarbet of the Illinois Central railroad. This model tax committee laid down the principles upon which a model system of state and local taxation should be based, and set out a proposed personal income tax, a proposed property tax and a proposed business tax. The report of the committee and the appended proposals, with the discussion had at the Twelfth Annual Conference of the Association held in Chicago in 1919, were very carefully studied by your committee. The fact that Professor Charles J. Bullock, chairman of the model tax committee, was one of the experts employed by your committee assisted us not a little in understanding fully the proposals outlined in the model tax plan.

Your committee wishes that space permitted the fuller presentation of the testimony taken at its hearings. It was our endeavor to gather and consider all suggestions and to approach the entire matter with an open mind. It is for this reason that we have recorded briefly in this chapter the plans which were laid before the committee.

CHAPTER III

The New York State Income Tax

Agitation for Income Tax

The proposition of a state income tax as is indicated by the testimony contained in the last chapter stood out prominently among the suggestions offered to the committee. Agitation for the enactment of such a law in New York State was, however, not novel. It had been urged from time to time before. During recent years, however, the advocates of the tax have devoted their main energies to securing the federal income tax amendment because the opposition in the state to any centrally administered tax was so extensive as to make it unwise to urge the matter further and because it was considered advisable not to confuse the two in the minds of the public. There were also many staunch supporters of the income tax who doubted the possibility of successfully administering a state income tax. The experience of Wisconsin, which adopted an income tax in 1911, and the adoption of the federal sixteenth amendment in 1913, however, cleared the way for action in this state.

In 1915 a committee appointed by the mayor of the City of New York recommended the adoption of the income tax. It realized that the time for attempting to separate the sources of state and local revenue had passed, and was convinced that the classification of property so as to tax different kinds of property at different rates would prove no solution of the difficulties in this state. Therefore the committee concluded with the economists, experts on taxation, and some far-sighted public officials, that the time had come for the adoption of an income tax in New York. The country had become accustomed to the federal income tax which could no longer be jeopardized by the adoption of the state income tax, and the very existence of the federal tax was believed greatly to simplify the administration of the state tax. Furthermore, the acute financial crisis made it practically certain that the localities would not object to the centralized assessment of the income tax, without which the plan would assuredly have been doomed to failure — provided that they were assured of a

substantial portion of the yield and were thus in a position to avoid a further increase in the tax rate on real estate.

In 1916 the general subject of taxation was being examined by a joint legislative committee of which Senator Ogden L. Mills was chairman. The Mills Legislative tax committee also reported in favor of an income tax with division of the yield between State and locality.

At first, however, progress proceeded only to the point of accepting the principle for corporations. The Emerson Act of 1917 imposed what is to all intents and purposes a corporate income tax, with the exception that public utilities and monied corporations are still subject to the old system of capital and gross receipt taxes. Then came the acute financial situation in the State as well as in the localities and the appointment of this Committee in 1919. After much deliberation and a complete examination of all parts of the problem, we prepared and reported a bill following the general outlines of the Federal Act to establish an income tax in this State. It was adopted by the Legislature and became a law on May 14, 1919.

Relation to Federal Tax

Doubts were felt as to the advisability of imposing a State income tax in addition to the existing high rates of the Federal Income Tax. The objection was, upon analysis, found to apply to the imposition of any additional burdens. But notwithstanding the heavy load of tax burdens resulting from war conditions, the needs of the State and of the localities had to be met; and if there had to be additional taxes, an additional income tax seemed to afford no more of a grievance than additional taxes of other kinds, perhaps more burdensome and less productive. On the contrary, those who had become accustomed to paying a Federal Income Tax could, it was thought, be brought to pay an addition thereto at a low rate with less hardship than would be occasioned by the addition of one or more taxes of a new and different kind.

It was thought desirable to avoid an unnecessary multiplicity of taxes, and to harmonize our taxes so far as possible, with the Federal system to which people had become accustomed. This consideration was paramount in determining the form of the bill.

The Bill

It was suggested that an entirely new and original draft of a bill might be more closely adapted to the special conditions existing in New York, and perhaps also better the provisions of the Federal Law, where experience had shown that they could be improved. On the other hand, it was seen that to introduce a new, perhaps even a superior, form of law, would compel taxpayers to conform to two different systems, and thus would bring about in part, the disadvantages of a new form of tax. This practical consideration prevailed, and it was accordingly decided to permit taxpayers to follow as closely as possible the same principles and procedure which govern the Federal Tax. To that end the new law was so drawn as to copy the Federal Law as far as possible. It was felt that practical uniformity was better than theoretical perfection.

Federal Law

It was not, however, possible to follow the Federal Law in all respects. The limitations on the jurisdiction of a State called for special treatment. The Federal power extends to all persons and property within the United States, without regard to state lines; the problem of the non-resident alien is comparatively insignificant. Not so with a State Income Tax. Here the State line becomes a barrier.

Jurisdiction

The question of jurisdiction is fundamental in considering a State Income Tax. On what jurisdictional theory shall the tax be imposed? Shall it be a purely personal tax, to be imposed only on residents of the State, and on them, be measured by their income from all sources? Or shall it be regarded as a tax levied on incomes, considered as property subject to the jurisdiction of the State, and as such, to be levied on residents and non-residents alike, with respect only to their income arising from within the State? The latter course was recommended by the Mills Committee, which reported to the New York Legislature in 1916. Either ground of jurisdiction seems to be legally available to a State. To rely on either alone was not believed adequate to the needs of the situation in New York State. To limit the tax on

residents to their income derived from within the State would involve the abnegation of a large amount of taxpaying ability clearly subject to the taxing power of the State. On the other hand, to limit the tax to residents, would exempt a great amount of wealth produced within the State from its share of tax burdens, would discriminate heavily against residents, would encourage the already too prevalent practice of claiming a technical residence in adjoining states, and so would bring about discriminations, unjust because depending on technical rather than substantial distinctions. It was therefore decided to adopt a combination of the two methods and to make the tax rest on both grounds of jurisdiction, by taxing residents of the State on their entire income from all sources, and non-residents upon their income from sources within the State. This involved the adoption of substantially the same principle as that of the Federal Income Tax in its treatment of citizens or residents of the United States on the one hand, and of nonresident aliens on the other, but the practical application of the principle is obviously very much more difficult where State lines must be considered.

Residence

It was not deemed wise to attempt to prescribe any statutory criterion for determining what persons should be deemed to be residents of the State for the purposes of the law. Residence is a question of fact, depending on many circumstances, and has been the subject of many judicial decisions. In so far as jurisdiction, in a given case, depends on residence, such jurisdiction cannot be acquired by any statutory definition. No such definition was therefore attempted. In order to prevent evasion of the tax, it was provided that a person who becomes a resident of the State between January first and March fifteenth of the year when the tax is levied, measured by the income of the preceding year, and who thus would escape a similar tax in the State from which he removed, shall be deemed a resident for the purpose of the tax.

Rate

The tax applies only to individuals. The rate of tax was in the original draft of the bill fixed at 2 per cent without graduation. It was felt that the high graduated rates of the Federal tax made

any additional system of graduated State taxes unnecessary; but it was finally decided to establish three steps, the tax being fixed at 1 per cent on the taxable net income up to \$10,000; at 2 per cent on the excess up to \$50,000, and at 3 per cent on the remainder.

The question of imposing a higher rate of tax on investment incomes than on labor or business incomes (sometimes referred to as unearned and earned incomes, respectively) was discussed. It was concluded that in the interest of simplicity and in view of the graduated rates of Federal income tax on higher incomes, which in effect impose a higher rate of tax on those funded incomes which are found principally among the larger incomes, no further discrimination of this kind should be proposed at the time.

"Income"

In defining and measuring the income on which the tax was to be laid, care was taken, first, that the tax should not be a tax on specific objects, but a general tax upon those subject to it in proportion to their ability to pay, as measured by their total income, and that, therefore, the base should be as broad and universal as possible, with no unnecessary exemptions; second, that for the reasons already referred to, the Federal Law should be followed wherever possible.

The bill accordingly followed for the most part the provisions of the Federal Law, defining gross incomes, fixing the measure of gain or loss on the sale or disposition of property except that values of property acquired before the enactment of the law were taken as of January 1, 1919, instead of March 1, 1913, referring to the accounting methods to be used (including the use of inventories) and the periods (taxpayer's fiscal or calendar year) as of which income is to be measured, enumerating the deductions to be made from gross incomes in order to arrive at net income.

Dividends

Dividends from corporations are included in the taxable income of residents, but not in the taxable income of nonresidents, except as they form a part of the income of a business carried on within the State by a nonresident. This provision occasioned much debate. The arguments for following the Federal rule of exemp-

tion were not found convincing because, in the first place, the reason for the Federal exemption is that the corporation has paid the tax on its entire income, whereas the State of New York collects a tax from corporations, only on that proportion of their income which is earned within the State; and in the second place, the Federal exemption of dividends is extremely limited, extending only to the normal tax, dividends being subject to the Federal surtaxes, which reach at high rates the larger incomes, including the greater part of the dividends paid. Consequently the general principle of basing the tax on the entire income, without unnecessary exemptions, was allowed to prevail with regard to residents. With regard to nonresidents, the case was different: their dividends could have been subjected to tax only if received from domestic corporations, a distinction the enforcement of which would have involved a discrimination against New York corporations which was not deemed to accord with public policy. For this reason the Federal Law was departed from to the extent of exempting from the tax, the income of nonresidents not only from stocks in New York corporations, but also from New York bonds and bank deposits, not constituting part of the income from a New York business.

Nonresidents

Nonresidents are taxed only on income from property owned and from businesses, trades, professions or occupations carried on in the State. Annuities, interest on bank deposits, interest on bonds, notes, or other interest-bearing obligations, and dividends from corporations, received by nonresidents from within the State, are not subject to the tax, except to the extent to which the same is a part of income from any business, trade, profession or occupation carried on in the State. Nonresidents are allowed the same deductions as residents, if and to the extent that such deductions are connected with income arising from sources within the State, except that a nonresident is allowed to deduct losses only of real or tangible property located in the State.

Estates and Trusts

Estates and trusts are subject to the same distinction made in the Federal Law, between income accruing to an individual bene-

fiary, and income not presently assignable to a definite beneficiary, and therefore regarded as income of the estate or trust as such. The estate or trust of a resident is taxable on its entire income, and a resident beneficiary of an estate (whether a resident or nonresident estate) is taxable on his entire income, as in the case of other incomes of residents. Nonresident estates and trusts, with respect to the income received by the estate or trust as such, and nonresident beneficiaries of estates or trusts are taxable, in common with nonresidents generally, only on their income from sources within the state, excluding income from bank deposits and from securities.

Partnerships

Partnerships are treated in like manner as in the federal laws; the individual members are taxable on their respective shares, and the partnership files an information return.

Exemptions

The specific exemptions in the income tax law are fixed at the same amounts as in the federal law — \$1,000 for a single person, and \$2,000 for one married or the head of a family, together with \$200 for each dependent.

Federal, State and Municipal Bonds

Some deviations from the rules governing the federal tax were found necessary in dealing with bonds. Interest on obligations of the United States and its possessions was exempted, for jurisdictional reasons, free from the limitations as to amount fixed by the federal law. The federal law, for similar reasons, exempts interest on the obligations of any state, territory, or any political subdivision thereof; the New York law exempts interest on the obligations of the State of New York or of any municipal corporation or political subdivision thereof, but not interest on the obligations of any other state or municipality. As originally drafted, the exemption applied only to New York State or municipal bonds, issued before the passage of the law, leaving those subsequently issued subject to tax, but by amendment, they were all exempted.

A special exemption was asked for on behalf of owners of mortgage securities on which a recording tax of one-half of 1

per cent had been paid, under a law exempting them from personal property taxation, and of so-called "secured debts" or investment securities on which stamp taxes had been voluntarily paid under a succession of laws whereby, during the period from 1911 to 1915, a payment of one-half of 1 per cent on the face value secured a similar exemption in perpetuity, during certain portions of 1915 and 1916, a payment of three-quarters of 1 per cent secured a five-year exemption, and during 1917 and 1918 an exemption of from one to five years could be obtained by paying at the rate of one-fifth of 1 per cent for each year of exemption desired. It was contended that those who had thus purchased exemption from the personal tax, were morally entitled to exemption from the new income tax as well. Such exemption was granted for the unexpired term of the specific period for which exemption had been purchased under the 1917 law; but not with respect to securities under which tax had been paid under earlier laws, because it was felt that the holders had already enjoyed, in the period elapsed, a fair equivalent.

Reciprocal Provisions

Nonresidents are protected against double taxation by a special reciprocal provision, whereby a nonresident, liable to income tax at his domicile, shall be credited on his New York income tax with such proportion of the income tax imposed by the state or country of his domicile, as his taxable net income in New York bears to his net income taxable by his home jurisdiction, provided the laws of the latter grant a substantially similar credit to residents of New York or impose a tax on the incomes of its residents derived from sources in this State and exempt from taxation the personal incomes of residents of this State.

Federal Officials

For the same jurisdictional reasons which operate to exempt the compensation of State officials from federal income tax, the present law exempts the compensation of federal officials and employees (including persons in the military and naval forces of the United States), but the compensation of state and municipal officers and employees is subject to tax. Officers and employees of the United States are allowed the exemptions of \$1,000 or \$2,000 in addition to their salaries.

Deductions

Exemption is granted to the income received for an institution or trust for religious, charitable, philanthropical, educational, or other similar specified purposes, and used for such purposes. Property of this character has been exempt from real and personal property taxation, and it was felt that an enlightened public policy required the same exemption with respect to the income tax.

In the case of nonresidents the deductible contributions or gifts to religious, charitable, scientific or educational purposes and the like, are limited to gifts to corporations or associations organized under the laws of the State.

The deduction of interest on the taxpayer's indebtedness, in arriving at net income, differs from that permitted by the Federal Law. The latter allows all such interest to be deducted, except on indebtedness incurred or continued to purchase or carry non-taxable securities. This seemed unworkable, and so the State law allows instead a deduction of all interest paid or accrued during the year.

Taxes allowed as a deduction do not include income taxes paid either to the United States or to a State. After considerable discussion, it was concluded that the taxable base ought not to be affected by the impositions of other jurisdictions. Burdensome double taxation, as between different States, is guarded against by the reciprocal credit provision above referred to.

Withholding

Withholding at source was deemed necessary only in the case of salaries and other compensation for personal services paid to nonresidents. In order not to cast on the employer the burden of deciding at his peril the question of fact as to the residence of an employee, the law requires him to withhold 1 per cent on the first \$10,000, 2 per cent on the next \$40,000, and 3 per cent of the balance, unless the employee files a certificate that he is a resident of the State. A requirement of withholding at the rate of 2 per cent was originally inserted in the law when the bill provided for an income tax at a uniform 2 per cent rate. Subsequently the sliding scale of tax was adopted without changing the withholding provision. This oversight was remedied in 1920 by

specific amendment. In any event, the employer is subject to no penalty for failure to withhold or make return if the employee makes return and pays his tax.

Returns

Returns are to be filed by March 15th, and the tax, as shown on the face of the return, paid at the time of filing. The comptroller has power to revise the return and compute the tax, and in cases of failure to file return, to make an estimate of the taxpayer's income and assess the tax. The procedure for the review of the comptroller's assessment is similar to that for review of the state tax commission's assessments, under the corporation franchise tax law. An application for revision of an assessment may be filed within one year, upon which the taxpayer is entitled to a hearing, and the determination on such application may be reviewed by certiorari.

Returns of income are required substantially as in the federal law; they are to set forth, so far as may be, the same items as called for by the federal returns, together with such other facts as the comptroller may call for. Information returns are required substantially as in the federal law.

Administration

The administration of the law was placed in the hands of the state comptroller. There was unanimous agreement that an income tax is not a local tax and could not, with success, be levied by local officials, as is the local real and personal property tax. The bill, as originally drawn, entrusted the assessment of the tax to the state tax commission, which now assesses franchise taxes on corporations, and its collection to the state comptroller, who is the state's fiscal officer. As the result of a political compromise, the bill was finally amended so as to leave for the time being the entire administration of the law, including the assessment as well as the collection of the tax, to the state comptroller.

The comptroller was authorized to make such rules and regulations, and to require such facts and information to be furnished, as he deemed necessary to enforce the provisions of the law. This rule-making power is of unusual importance, because it was not thought wise to encumber the law with a large number of detailed

regulations specifying the manner of its application in every possible contingency; but instead, the policy was adopted of laying down in the law the principles which should control, leaving the manner of applying those principles to particular classes of cases, to be worked out by the more flexible method of regulations, to be made and altered from time to time, as experience may require. Consequently the practical working of the law will depend largely on the regulations, which will have to deal not only with matters of procedure, but also with the substantial application of the law in such matters as the apportionment and allocation of sources of income of non-residents and of the deductions with respect to such sources within and without the state.

Penalties

Penalties are similar to those in the corporation franchise tax law. For failure to make a return, or for a false or fraudulent statement, a taxpayer is guilty of a misdemeanor and subject to fine, not exceeding \$1,000, or imprisonment for not exceeding one year, or both, and is also subject to twice the ordinary rate of taxation on the amount of tax not originally paid. In case a delinquent voluntarily makes a correct return within sixty days after it is due, a 5 per cent penalty, with a minimum of two dollars, is added to the tax. For delay in payment of tax, the penalty is 5 per cent, plus 1 per cent per month.

The law contains a provision making it unlawful for any person to agree to assume or pay any other person's income tax, and any such agreement is declared to be null and void. The purpose of this provision is to preserve the equality of the tax by preventing the shifting of its burden. It was vigorously opposed on the ground that it would be unenforceable, but it was decided to retain it, if only for its moral effect.

Distribution of Tax

The proceeds of the tax are to be distributed between the state and the localities, in the following manner: the comptroller is to retain in his hands at all times, a fund of \$250,000, out of which to pay refunds to taxpayers. Of the remainder, 50 per cent is paid into the state treasury, to the credit of the general fund. The other 50 per cent is to be distributed among the counties, in

proportion to the assessed valuations of real estate in each county. The treasurer of each county is to distribute the share of the county among the towns and cities in the county in proportion to their respective real estate assessments, each city's share being paid into its general fund, and each town's share being credited against the county tax payable by it. This method of distributing the tax to cities and towns on the basis of their unequalized realty assessments has proved more powerful than any other provision of law in securing 100 per cent assessments. Its ultimate effect will be very extensive.

General Property Tax

While it is contemplated that the income tax will ultimately take the place of the unworkable general property tax on personal property, it was not thought possible to abolish that tax entirely. The law does, however, exempt from the personal property tax, money on hand, on deposit or at interest, bonds, notes and choses in action, and corporate stocks, owned by a person subject to income tax.

When the bill was under discussion, at the last moment, there was inserted in the section which grants exemption to intangible personal property subject to the income tax, the following phrase: "and from which any income is derived." This made it possible for local taxing officials to maintain a taxability under the general property tax of all "intangibles" that did not yield an income. This created great confusion and raised much criticism. It is absurd to think that securities or other intangible personalty which yield no income at all should be taxed at the ordinary rate of two and one-half or three per cent on the value of the property when income producing securities were to be taxed one to three per cent on their income. It was intolerable in the case of income yielding personalty to be forced to pay the general property tax rate, and it is certainly an absurdity in the case of non-income yielding intangibles. The only consequence of such an interpretation was to create annoyance and to keep alive some of the perjury which it has been the good fortune of the substituted income tax provision to diminish. For this reason this Committee reported at the next session and the Legislature adopted an amendment to the law eliminating the phrase in question.

INCOME TAX ADMINISTRATION

Administrative Organization

The administration of the income tax in the State of New York is highly centralized and is completely under the jurisdiction of a single State department — the income tax bureau. The income tax bureau maintains its central office in Albany, but for the convenience of the public has established the following branch offices for dealing with individuals:

- | | |
|-----------------|----------------|
| 1. Albany | 7. Buffalo |
| 2. New York | 8. Rochester |
| 3. Brooklyn | 9. Syracuse |
| 4. Bronx | 10. Utica |
| 5. Jamaica | 11. Elmira |
| 6. White Plains | 12. Binghamton |
| | 13. Kingston |

The total number of employees of the income tax bureau in Albany and in its district offices is 450, all of whom, with the exception of the director and four assistant directors are under the classified civil service. The cost of administration at present salary rates is approximately a million dollars per year. During the first year the cost of administration was \$784,000, and the amount collected \$37,070,411.45 to December 31, 1920. In other words, the cost of administration during the first year amounted to slightly over two per cent of the amount collected. The total number of returns filed with the income tax bureau through its district offices was 826,564. The cost per return is, therefore, approximately \$1.21, which compares very favorably with the cost per return in other states.

Central Office

The central office of the income tax bureau is located in Albany. It is in charge of the director of the income tax bureau and is divided into the following seven divisions:

- | | |
|-------------------|------------------------------|
| 1. Administration | 4. Audit |
| 2. Files | 5. Investigation |
| 3. Collection | 6. Information and publicity |
| | 7. Statistics |

The administration division is responsible for the administration of the Albany office, the supervision of the Albany office, including general services, handling of mail and correspondence. It is responsible for purchasing and distributing supplies, furniture and printing for the entire department. It handles the personnel records and relations with the civil service commission.

The files division is in direct charge of all files both in the central office in Albany and in the district office in Albany. It has, also, general and supervisory charge of office files of the district offices.

The collection division is responsible for the supervision of district offices in so far as income tax collections are concerned. It audits collectors' accounts, distributes the funds, collects additional assessments and delinquent taxes and makes all refunds.

The audit division audits all income tax returns. It also makes audits in the field of books of taxpayers and delinquents. Due to the work of this division over \$1,000,000 additional will be collected from taxpayers who have underestimated the amount of the tax due the State.

The investigation division is responsible for securing information about those who have failed to file returns. It has access to the federal income tax returns under the reciprocal provision of the State income tax law, and, on the basis of this material, and also on the basis of carefully planned examinations, discovers those who have failed to file income tax returns. Due to the efforts of this division over \$175,000 has been collected from delinquents.

The information and publicity division is responsible for preparing the publicity released through newspapers, the bulletins which are sent to district offices and for handling general inquiries relating to the law, regulations and rulings of the department. It also publishes the rulings and regulations for the use of the income tax bureau itself and for distribution to the public.

The statistical division is responsible for preparing classifications and tabulations of income tax statistics for use by the director, the comptroller, the governor, the State Legislature and

for general public circulation. The information prepared by the statistical division has been indispensable to your committee in considering the various income tax amendments which have been urged from time to time.

District Office Organization

Each district office is responsible for (1) collecting income taxes, (2) making field audits of such returns as may be referred to the district office by the central office, and (3) carrying on investigational work under the direction of the central office.

Each district office is in charge of a district director. The larger district offices are organized with the following main sections: a mail section for handling all incoming and outgoing correspondence; an information section for explaining income tax matters to the public; an investigation section which works in conjunction with the investigation division of the income tax bureau; a field audit section which works with the audit division of the income tax bureau, and a cashier's department. The cashier's department performs the important function of collecting all income taxes paid at the district office. The cashier's department is divided into the following sections: returns examination section, which checks over the returns merely to see that payments tendered agree with amounts listed as due; a teller's section, which actually receives the cash or the checks; a listing section, which prepares lists of those submitting returns, and a bookkeeping section, which keeps the books of the district office. The organization of the district office here outlined is varied to meet the conditions, and in many cases sections are consolidated under a single individual. This is especially true in the smaller districts. Clerical forces are also shifted from section to section to meet seasonal demands.

Office Methods and Results

The audit of returns filed during 1920 will be completed before the 1921 returns will be submitted. This result was secured through speeding up the work of the bureau and the introduction of efficiency and production ratings. Each working unit, whether in the administration division or in the audit division, is required

to report each day the quantity of work completed. In the investigation division careful cost accounts have been maintained in order to guarantee that all investigation undertaken by the division shall more than pay for itself through the amount of additional taxes collected as a result of the investigation. Up to January 15th, for example, the amount collected per day per investigator working in the field amounted to \$19.66, while the cost of such investigation was approximately half that sum. The efficiency records for stenographers indicate a very extensive improvement during the months that the income tax bureau has been in operation. Many individual stenographers have increased the number of letters per hour from eight to twelve since their appointment in the income tax bureau.

CHAPTER IV

Income Tax Exemptions

The Policy of the Committee

When the present income tax law was before the committee for consideration, and also since its adoption, various proposals and suggestions have been made as to exemptions. It has been the policy of the committee to allow no doubtful exemptions. Unless compelling reasons of public policy or of administrative or jurisdictional necessity could be shown, we have ruled against any restriction of the income tax base. We have endeavored to make the tax as all inclusive as possible in order that it might be truly democratic in its application and sufficiently productive at low rates.

Public Bonds

The exemptions which were written into the income tax law have been reviewed briefly in the last chapter. It will be seen that the policy of the committee has been consistent throughout. In one particular, however, the committee was of the opinion that even a further restriction of exemptions was desirable. This was in the exemption of income from state and municipal bonds. It seemed to the committee, after considerable study, that tax exemption for such securities was unnecessary under the income tax, though their exemption from the general property tax is justifiable because of the many injustices of that form of taxation when applied to intangible personal property. The committee's investigation showed that the financial saving to the State, to cities and towns through the marketability of bonds at low rates of interest because of their exemption is unquestionably more than offset by the loss of revenue due to the exemption. We are therefore of the opinion that steps should be taken as soon as is practicable to abolish all income tax exemptions for future issues and to secure an agreement with the Federal Government with regard to future federal bonds.

New Problem of Public Bonds

The time has now come for a determined stand on the part of State governments **against the further extension** and for the positive restriction of tax exemptions. The extension of governmental activities during recent years and the proposed expansion still under way has created an entirely new situation with regard to governmental bonds. The Federal government has undertaken vast public improvements and financial enterprises, such as the Panama Canal, the Alaskan Railroad, and the Farm Loan Banks. State governments have built canals, bridges and highways, and undertaken large hospital, institutional and educational projects originally financed largely from borrowings. Cities are digging subways, buying busses, erecting electric light and power plants and embarking on extensive improvement projects, all of which are financed primarily by the sale of tax exempt securities. Government is slowly invading a field which has heretofore been left to private enterprise and is financing the capital outlays which make this possible by the issuance of tax exempt securities. This fact creates an entirely new situation and your committee has come to the conclusion that the only sound policy to be pursued from now on is to require the marketing of all public securities without the exemption features.

A serious result of the present policy was emphasized by Secretary of the Treasury, Carter Glass, in his annual report for 1919. Our attention has been called to the fact that there are already outstanding some fourteen billions of dollars of tax exempt securities. Many experienced financiers have stated that this great mass of exempt capital is an important factor in the financial stringency and that tax exemption has also served to encourage municipal extravagance. It has certainly served to undermine the efficacy of the federal income tax system and has forced the retention of tax rates which could have been lowered if the income tax base had not been narrowed by such extensive exemptions. One of the injurious by-products of the indiscriminate exemption of public bonds has been the withdrawal of capital from the mortgage investment market. At a time when the building of homes was of paramount importance, the tax

system has indirectly lured private investors to place their funds in other securities.

The Question of Mortgage Exemption

When the income tax bill was first before your committee, there were those who appeared and urged the entire exemption of income derived from mortgages on the ground that mortgages represent part ownership in property which is already taxed. As was to have been expected, those with single tax leanings and those interested in the mortgage investment market were prominent in this demand for exemption. At that time the committee took the position that the tax which they were preparing was not a tax on property but a tax on the individual and that the measure of the ability of the individual to contribute to the support of the government was to be determined by the size of his entire net income and was not affected by the source of his income or the type of property from which it is derived, except where some recognition of the source was imperative for jurisdictional or practical reasons. In accordance with this policy, the income tax law includes income from mortgages.

During the 1920 regular session, and particularly during the special session of that year, powerful pressure was brought to bear in support of mortgage exemption. While this new demand for mortgage exemption came largely from the same sources as before, the arguments advanced were based entirely on the housing crisis. At both the regular session and at the special session your committee devoted very serious study and thought to the many problems involved in the proposed exemptions. It was our policy to hear all sides of the question and to secure the advice of those best qualified to furnish us with the required information.

Results of the Committee's Study

As a result of the committee's investigation of the mortgage exemption problem it became clear that undue emphasis had been laid by many exemption advocates on the shortage of mortgage money as a factor in the housing crisis. It was evident that fear on the part of investors and builders that the cost of

housing construction would recede in the near future, played a far more important part in the situation than capital shortage. In fact, much of the capital shortage was traceable to this fear rather than to any indirect effect of the tax system. The investor feared the shrinkage of his security more than the slight curtailment of his income through taxation. The labor situation, the contracting rings, the building material uncertainties, and the anti-rent profiteering legislation were elements of real importance, in the opinion of this committee, playing a far more important part in the housing shortage than the taxation of mortgages.

The Plans Submitted

The various plans submitted each demanded careful examination. The exemption of *new home mortgages* had many advocates. The advantage of the plan was that it confined the exemption of mortgages to new homes, thus meeting the immediate need and encouraging the construction of new dwellings. This plan was, however, entirely impracticable. All of the larger mortgage companies, savings banks and life insurance companies, as well as many economists, urged that the mortgage market is a unit and that it would be impossible to exempt one class of mortgages alone. It was stated that the exemption of new home mortgages would result in the calling of open mortgages in the effort to free the capital for investment in the more profitable new home mortgages with disastrous results. It would produce a panic in the mortgage market which would in the end injure new housing construction as much as it would encourage it.

Recognizing the impossibility of limiting the exemption of new home mortgages, many organizations and individuals advocated *the exemption of all mortgages up to \$40,000* for any single individual. It was urged that this plan would limit the exemption so that the very wealthy could not escape any considerable amount of taxation, while at the same time it would produce a large amount of mortgage money which could be used in housing. On examination, the following weaknesses of the plan developed:

1. The extension of the exemption to all mortgages would encourage all construction. The mortgage exemption granted in the effort to meet the housing crisis would be utilized to

encourage all other kinds of housing, such as factories, office buildings, theatres and warehouses. Under such circumstances it was clear that the material shortage and the labor shortage and the high costs which always attend a shortage would only be aggravated, and that while more money might be available building costs would increase and thus the construction of houses would again be discouraged. Housing had already shown an inability to compete with factories, office buildings and other commercial structures in attracting new capital, and it seemed probable, if encouragement were extended to construction in general, that housing would not benefit to any large extent in the immediate future.

2. The exemption of mortgages under the New York State income tax would in effect grant a state exemption to residents who had invested in mortgages upon real estate outside of the State of New York. Only the final exemption proposal confined the exemption to incomes from mortgages on property in the State of New York. In other words, we were asked through exemption to encourage construction in other States as well as in the State of New York.

3. It was extremely doubtful whether mortgage exemption with the \$40,000 limit would produce any appreciable amount of new capital for building construction. Even with exemption from both the New York State and the federal income taxes, mortgages could not compete in the market with gilt edge taxable securities and bonds which were selling on a 6, 7, and 8 per cent basis, except for those with incomes above \$20,000. It is only when we pass the \$20,000 income class that the progressive income tax rates are heavy enough to make 6 per cent tax exempt mortgages a more advantageous investment than other taxable securities that are now available. In other words, the only individuals who might be interested in tax exempt mortgages are those with incomes above \$20,000. The second fact of importance in this connection is that the number of such individuals is strictly limited. In 1917 there were only 18,000 individuals in the State of New York with incomes above \$20,000. At the present time it is estimated there are not less than 30,000.

If each one of these individuals took the full \$40,000 allowed him, the total product would be \$1,200,000,000 of mortgage money. At the time the committee was considering the matter it was estimated that there were six billion dollars of mortgages on New York State real estate. It was thus clear that the amount of capital which might be encouraged to enter the mortgage market through mortgage exemption could be entirely swallowed up in existing mortgages without the construction of a single building, to say nothing of the construction of a single home. In view of the fact that residents of the State of New York hold millions of dollars worth of mortgages on property in western states, it was clear that the plan of mortgage exemption with a \$40,000 limit would not produce any large amount of new money for home building.

Tacitly recognizing the fallacy to which the committee here calls attention, the mortgage exemption advocates abandoned the \$40,000 limitation and finally sought *complete exemption for all mortgages*. It was intimated to members of the committee that the \$40,000 limitation had been utilized by some from the first merely to allay the fears of those who opposed extended exemptions and that once the exemption propaganda was well underway, the limitation feature was to have been dropped.

The plan for the total exemption raised anew the problem of exempt securities which has been discussed above. On the basis of the best evidence available, it appeared that there was approximately thirty billions of dollars invested in mortgages in the United States, of which at least six billions represent New York State property. The suggestion that this stupendous amount of capital should be entirely exempted under the New York State Income Tax and later under the Federal Income Tax appeared to the committee to be entirely impossible. The income tax system has already been seriously undermined by the issuance of fourteen billions of dollars of tax exempt securities. What would be the result if thirty billions of dollars of mortgages were added and the total mass of exempt intangibles raised to forty-four billions?

In addition to this primary defect of the plan of limitless mortgage exemption, it must be remembered that here also the exemption applies to all mortgages and that the benefit to housing would be only incidental. As has been pointed out above, it appeared to your committee that housing could not expect to benefit by this exemption until all other more profitable building needs had been met. In other words, mortgage exemption would not build new houses until we should have caught up with the demand for new office buildings, new warehouses, new theatres, etc. As originally presented the plan of limitless mortgage exemption also called for a New York State exemption for the benefit of building construction in other states.

The advantage which limitless exemption had over the plan of limiting exemption to \$40,000 for each individual was that limitless exemption would certainly furnish a great deal more capital. It is to be noted, however, that this capital would come almost entirely from those with incomes over \$20,000. Contrary to the arguments advanced by many, tax-exempt mortgages would not appeal to those with small incomes, who, because of the low income tax rates to which they were subject, could more profitably invest in other securities at present market rates.

The final form in which mortgage exemptions was advocated limited the exemption to mortgages on New York State real estate. This limitation removed one of the faults of the other proposals, but introduced certain rather serious administrative difficulties.

Relation to Federal Exemption

All of the mortgage exemption plans advanced before your committee presupposed a similar federal exemption. In fact the exemption advocates themselves stated repeatedly that New York State exemption was of no value without federal exemption, and that the campaign for exemption here was of value chiefly as a precedent for federal action. We therefore endeavored to ascertain what the prospects were for the passage of an amendment to the Federal Income Tax Law exempting mortgages from taxation, and learned that limitless exemptions had not even been

considered seriously and that exemption with a \$40,000 limit had been considered but that it had been determined not to permit any further restriction of the income tax base through such an exemption.

One Indirect Result of Mortgage Exemption

Whenever a change is made in a fiscal system, it is liable to cause undue hardship for those who happen to be in an unfavorable position at the time of the change or to create for those who happen to be in a favorable position an unearned and fortuitous increment of wealth. The imposition and repeal of tariffs has more than once produced such results. The assumption of the State debts by the federal government in 1790 furnishes another example. The enactment and repeal of tax measures can produce the same general consequences. Your committee has therefore scrutinized all tax measures which have come before it to ascertain, where possible, the fortuitous results which might follow their adoption. In the case of mortgage exemption it was clear that the exemption would serve to enhance the value of present mortgages very considerably. A twenty-year 6 per cent \$50,000 mortgage which still had fifteen years to run could certainly be sold on a $4\frac{1}{4}$ per cent basis, that is for \$70,000, if it suddenly became exempt, to those, for example, who are now investing in the Liberty Bonds of the third issue which are exempt to any amount on a 4.01 per cent basis. An individual now paying the lower income tax rates, or a mortgage or trust company would thus profit very considerably on all mortgages now held if they were made exempt from taxation. This fact caused the committee to proceed with some caution before following the suggestions of the representatives of those monied corporations which hold a large part of the mortgages now outstanding who took such a prominent part in the mortgage exemption propaganda.

Conclusions and Recommendations of the Committee

As a result of these considerations and of the studies of the Committee, it was determined not to advocate the exemption of mortgages in any form but rather to call the attention of the Legislature and the public, first, to the danger of destroying the income tax by restricting its base and, second, to the need of

reconsidering the entire question of tax exemption in the light of the new situation. It is our belief that the income from State, municipal and federal bonds should be taxed as other income, and that practical steps to secure this result should be undertaken in the immediate future.

CHAPTER V

Assessment Problems

In the Retrenchment Section of this Committee's report, which was published as Legislative Document No. 80 of 1920, the conclusions of the Committee with regard to local assessment problems were presented in considerable detail. Our examination of the operation of present assessment laws and practices developed the fact that there is need not only of local reforms in assessment practices, but also of the amendment of the State constitution and of State law. The chief assessment problems demanding State action are:

1. The assessment of railroad property
2. The equalization of assessments
3. The assessment of tangible personal property
4. The organization of local assessment machinery
5. A uniform date of assessment

THE ASSESSMENT OF RAILROAD PROPERTY

Under the laws of the State of New York, the local assessors are responsible for the assessment of the property of the railroads except for special franchises which are assessed by the State. The practical results have been unsatisfactory. The local assessor is not in a position to know the value of the entire railroad system and to assign to his tax district the proportionate values involved. Nor is he able to arrive at the value of trestles, bridges and tunnels. In one case a local assessor is reported as neglecting to assess a tunnel entirely because as he said: "I never could see how a hole in the ground was worth anything."

The results of the present system are indicated by the chart here presented. While the information which forms the basis of this chart was collected by the State Tax Commission in 1916, few radical changes have been made since that time. The relative assessments may be accepted as substantially unchanged. There seems to be but one conclusion to which a study of this chart would lead: local assessors cannot be expected to assess the rights of way and main stem of the railroads.

An examination of the methods of assessing railroad property in other states shows that the same difficulties have been encountered in every state. Piecemeal assessments by local assessors are an absolute failure. In a majority of the states, and in all of the more progressive states, the system still used in this State has been abandoned. In those states in which a tax on the real property is in force, the most satisfactory system seems to be that in which the assessment is left to the State Tax Department.

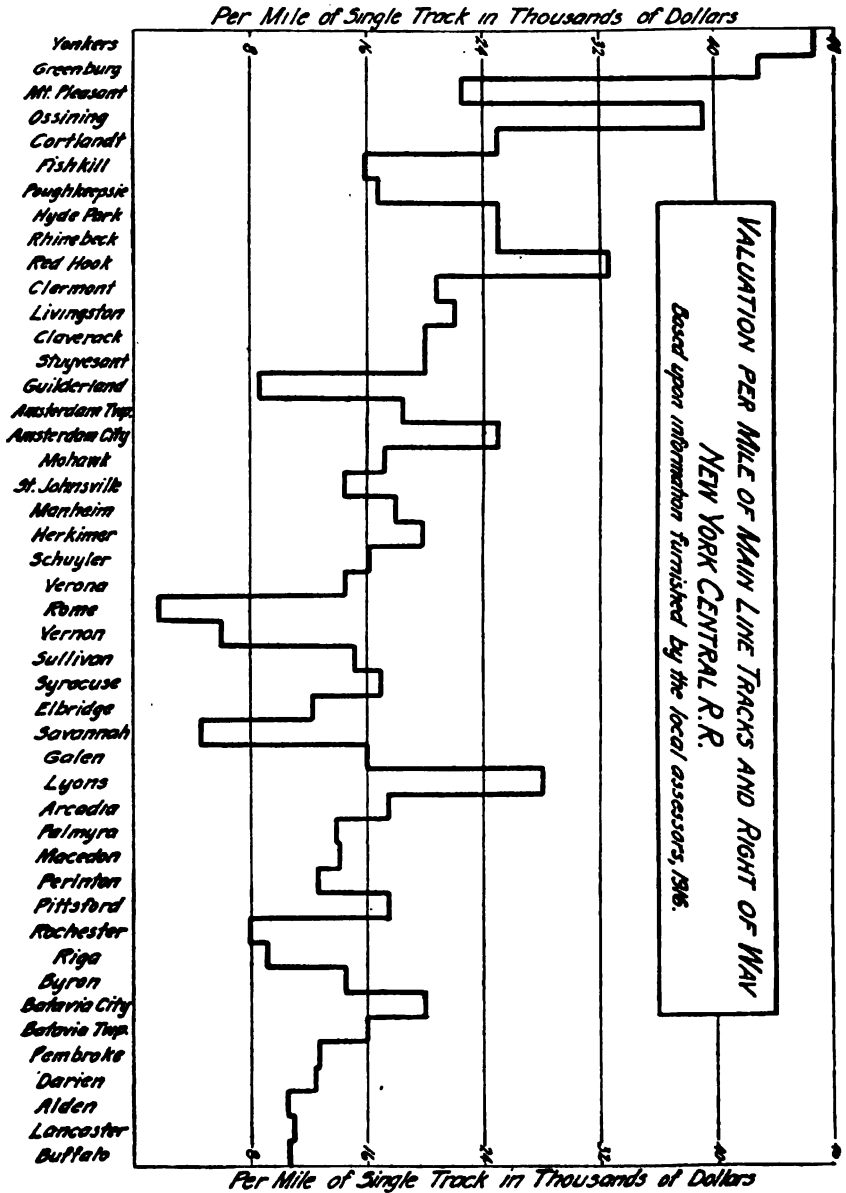
EQUALIZATION OF ASSESSMENTS

Because of the different standards of assessment in the various cities and towns of the State, and the inequality which would result if assessed values as made by the local assessors were taken as the basis for the distribution of the county, State and school district taxes, provision has been made by law for the equalization of tax burdens. This equalization as between the cities and towns of a county is entrusted to the board of county supervisors by the State Tax Act,* though provisions is also made for the delegation of this work by the supervisors to a board of three commissioners of equalization to be appointed by the supervisors, one from the cities of the county, one from the towns, and one from outside the county, but from within the same judicial district. In Oneida county a board of equalization of seven members, and in Erie county a board of two, with a third member added in case of disagreement, have been established by special acts.†

The conferences held by this Committee would indicate that the present methods of equalization are thoroughly unsatisfactory. Every system now in use has been criticized and ridiculed by the city officials and by the county officials, with the exception of the new bi-partisan board of Erie county, which was not created until 1919. It would seem, however, that the least satisfactory plan is that of leaving the equalization to the supervisors. In Canandaigua, the statement was made with regard to equalization that one city of the county "gets the long end of the stick," that

* Art. 3, Sec. 50ff.

† Laws of 1915, Ch. 421; Laws of 1919, ch. 304.



"about every municipality is kicking," and that "if the juggling in the equalization can be eliminated it would be fine." The representatives of Norwich explained to the Committee that their board of supervisors had delegated its powers of equalization to a board of equalization, as permitted by law, and that the new system was superior. City Chamberlain E. E. Davis remarked: "There was too much political juggling in the board of supervisors * * * it was all based according to your influence upon the board. It now goes to the board of equalization, and under the rating which they now have in our county every one is getting an equitable deal. It has put more on Norwich, but it has been equitable just the same." One deputy county treasurer said to the Committee:

"You will find in our county, and I think it applies to every county of the State, that one town will assess at 50 per cent, another at 60 per cent and another town at 70 per cent, and when they come up before the board of supervisors for equalization, they all get about the same medicine and after that happens a few times it is only a question of who can assess the lowest and get away with it."

Mayor Waldorf of New Rochelle explained the practical operation of the equalization system in Westchester county as follows:

"You know there is a little ring in those boards of supervisors, two, four or five in one little clique, and they are going to get low taxes for their village and they build all the rest around theirs. Theirs comes in first, and they will make an arbitrary figure of seventy, sixty, forty or ninety and the others have to build around that * * * Not one man in a hundred understands the equalization roll of the board of supervisors."

Mayor Waldorf explained that New Rochelle makes a practice of appealing from the equalization as the only method of getting a fair deal, and that the supervisors now owe the city some \$35,000 as the result of a recent decision.

The facts and testimony presented before this committee indicate that present methods of equalization by the boards of super-

visors, by the equalization boards appointed by the supervisors, and by special boards of equalization have all failed to produce satisfactory or equitable results. Your Committee has come to the conclusion that little can be done to remedy this situation under the present system of county government which leads to the settlement of all matters on the basis of local constituencies and the familiar tactics of log-rolling. We believe also that scientific equalization will require the employment of a trained technical staff to collect and classify the facts upon which the equalization must rest. Inasmuch as the State Tax Department is now required to gather just such information as the basis of its equalization of special franchises, your Committee is of the opinion that the entire question of equalization should be turned over to the same body. This would eliminate local jealousies, duplicating machinery and organization, and inefficient methods. It would make possible the introduction of fair equalizations at a minimum of expense.

ASSESSMENT OF TANGIBLE PERSONAL PROPERTY

The taxation of tangible personal property in the hands of individuals has been quite as much a farce as that of intangible personalty, with the added objection that when tangible personalty is assessed at all it is generally in the farming districts where the personalty is visible. There are only three kinds of tangible personalty which are taxed at all in the State of New York, and all of them in such an entirely fragmentary and unequal way that they form a travesty on taxation. These three are merchants' stock in trade, household furniture and jewelry, farming implements and livestock.

Discriminatory Results of Present System

As regards merchants' stock in trade, which is only rarely assessed, it is quite clear that the income tax is an entirely satisfactory substitute. To tax individual business men on their stock in trade is, under modern business conditions, the height of injustice because no attention is paid to the turnover or to the proceeds of the business. To tax the income derived from the business is

therefore far better than to tax the stock in trade. This is now almost universally recognized in the State of New York.

The tax on household furniture and jewelry is notoriously inadequate in the State of New York. No attempt has ever been made to levy such a tax in proportion to the real facts of the case and wherever the tax is assessed at all, it is by a slapdash or hit and miss method which is worse than useless.

The tax on farmers' implements and livestock is in the same category as merchants' stock in trade. The actual yield of the farm bears only a slight relation to the market value of the tangible personalty. Here again, the tax when levied is so irregularly and inequitably levied as to form a travesty of justice. This injustice is particularly evident as between the farmer and the city dweller, because the farmer's personal property is easy to locate and to appraise, while the city man's property is more varied, less accessible, and bears little relation to his tax-paying ability.

When we consider further that the entire revenue from tangible personalty is virtually negligible and that most communities and townships can secure from their proportions of the income tax more than was raised by the tax on personal property, it would seem that nothing would be lost and considerable might be gained by making the income tax a substitute for the tangible personal property tax as has already been done for intangible property.

It is worthy of note that when England, France and Italy abandoned the general property tax and substituted the income tax, they retained, indeed, the taxation of real estate, but made no attempt to retain the taxation of personal property. The personal income tax was considered, and rightly, a substitute for the personal property tax.

Classified Personal Property Tax

From the testimony taken by your Committee it was evident that the situation in New York is favorable to a repeal of the taxation on tangible personal property. There was, however, considerable sentiment that tangible personal property in the hands of individuals should pay something in the way of a direct property tax towards the support of government. Representatives of

Buffalo and New York City emphasized the need of such legislation, and, after full consideration of the entire problem, it was deemed best to submit a bill carrying out what was believed to be the only workable personal property tax for this state. Such a bill was submitted in 1919.

The bill submitted defines tangible personal property as all corporeal personal property such as machinery, tools, implements, goods, wares and merchandise, but excludes money deposited in banks, shares of stock, bonds, notes, credits or evidences of interest in property and evidence of debt.

By the terms of the bill tangible personal property is to be taxed on the basis of 5 mills on each dollar of the full value thereof in excess of the amount exempt by law. The tax is to be assessed, levied and collected in each tax district in the same manner as the real estate tax. An exemption is granted to the extent of \$3,000 for each household. No deduction of debts is allowed. The place of assessment is the tax district in which the tangible property is situated, on May 1st in towns, and in cities on the 16th day prior to the date of assessment of real property. The necessary provisions of doomage and penalties are provided for. The taxes collected are to be a credit against the city and county taxes of the town, and in cities they shall be credited to the general fund.

This bill was drawn and submitted by the Committee because, in our opinion, it indicates the only possible method of laying a successful direct tax upon tangible personal property in this State under present economic conditions. The Committee wishes to make it clear, however, that even such a law would prove less satisfactory and just than the personal income tax. In view of the adoption of the income tax, your Committee is of the opinion that there is no need of introducing a classified property tax law for the present. It would seem also that the best method of eradicating the clear injustices of the present tax on tangible personal property would be to abolish the tax entirely, distributing the portion of the tax burden now placed upon such property through the agency of the income tax in the same way that the corporation income tax (the Franchise Tax on Business Corporations, Art. 9-A) carries the taxes formerly placed upon the tangible personal

property corporations. Before making a definite recommendation to this effect, however, the Committee desires to make a careful study of the fiscal questions involved. Forty-two cities (not including New York City) report that their total assessed valuation of personal property this year amounts to \$6,607,226.18 and that the tax on this personal property amounts to \$215,228.12. Of these forty-two cities, twenty-four cities favor the repeal of the personal property tax, ten are opposed and eight are noncommittal.

ORGANIZATION OF THE LOCAL ASSESSOR'S OFFICE

In the Retrenchment Section of the Committee's report, the evidence collected by the Committee and the conclusions of the Committee concerning the proper organization of the local assessor's office are presented in detail. The Committee wishes to reiterate these conclusions and to re-emphasize the recommendations there made.

The first step in the modernization of the assessment methods of our cities is the reorganization of the office of the assessors. On the basis of the results, it can be stated that the single-headed assessment office is preferable to direction by a board. The concentration of authority and responsibility in the hands of a single assessor eliminates sectional log-rolling in assessments, lessens the opportunity for "deals" and favoritism, and makes it impossible for one assessor to escape responsibility by hiding behind a board.

The work of assessment in a modern city is not a spasmodic spring-time job. It is a continuous scientific process. The assessment roll is thus merely a transcript at a given time of an appraisal which is in a state of continual change. Buildings are being added and subtracted, land values are being increased or decreased, whole sections are being enhanced or depreciated throughout the course of the year. The collection of information on ownership and on sale prices, asking prices, mortgages, rents, insurance and other clues to value must, from its very nature, be continuous. These facts cannot be neglected for nine months of the year and then ascertained in three months of field work and roll copying. In the cities of this State the work of assessment must be a continuous process.

It is of the utmost importance that the commissioner of assessments be paid a salary sufficient to attract an able man and to command his entire time and interest. Full-time service is indispensable if the work of assessment is to be continuous. Full-time and fully-paid service is indispensable as a means of freeing the assessor from the pressure of "personal interests." Any assessor who is not adequately compensated will be forced to devote part of his time and a great deal of his interest to other methods of adding to his income. When such a situation exists it is exceedingly difficult for the assessor not to utilize his office as a business asset. The under assessment of customers, the penalizing of competitors and the payment of personal debts through tax exemption have not been unknown. There seems to be no method of escaping this situation without cutting the assessor loose from the temptation by paying him a salary sufficient to command his entire time, enthusiasm and loyalty.

While this will require a very marked increase in the salary rates now paid, it is believed that the adoption of this policy will result in a true economy. Efficient assessment will easily pay for itself in the added revenues it will secure from those who are now dodging their fair share of the tax burden. This has been the actual experience of cities like Buffalo, Middletown, Niagara Falls, New Rochelle and New York City. It is to be remembered also that the single chief assessor, or commissioner of assessments, will take the place of the present board of assessors thereby reducing the present overhead charges.

Subordinate to the chief assessor there will be such deputy assessors, draftsmen and clerks as are necessary. In all of the larger cities the office of the commissioner will have to be split up into departments along functional lines. The number of deputies, clerks and departments will vary from city to city, and should be determined to fit local needs and conditions. The principle of civil service should be extended to the entire assessing force with the exception of the commissioner of assessments in the larger cities, who should, nevertheless, serve during good behavior.

Selection of the Chief Assessor

The chief assessor should be appointed by the executive head of the city government. In most cities this is the mayor; in some

it is a commission; and in others it is the city manager. This Committee recommends the appointment of the assessor because of the experience of the cities of this State. Appointed assessors have been of higher caliber on the whole than elected assessors, in spite of the fact that there are a number of unusually capable elected assessors in the State today. Most of the conspicuously efficient assessors are appointive and not elective officials, and all of the outstanding misfits have been elective and not appointive. Under present conditions of party irresponsibility in the cities, and in view of the qualities needed for the work of assessment under modern urban conditions, the Committee has come to feel that at least in the cities of the State the assessor should be appointed and not elected.

Fear has been expressed by some that the appointment of the assessor or the assessors by the mayor will result in the introduction of petty politics and a system of "rewards and punishments" into the work of assessment. It is urged that the mayor will attempt to use his influence over the assessor as a means of injuring his political enemies and paying his political debts. Because of the serious nature of this criticism, the Committee has made special inquiry into conditions in those cities in which the assessor is appointed. We have found that none of these fears is realized. Not one of the cities which now have appointed assessors thought that there was any danger of such an abuse. This theoretical criticism, it is to be noted, came exclusively from cities that have never tried the appointive system. The cities that are now appointing their assessors, and many that are now electing them stated emphatically that assessors should not be elected but appointed. Cities that have tried both systems within the past few years, and are therefore in the best position to testify on the matter, were most emphatic in their opposition to the election of assessors.

In the Retrenchment Section of our report, the reasons assigned by the city officials for the actual elimination of petty politics from assessment by the introduction of the system of appointment have already been indicated. Where the assessor is placed under civil service, that operates as a protection against "influence." The system of review of assessments by a superior board of city officials, discussed below, furnishes an opportunity for full pub-

licity and exposure of any patent discriminations. In Middletown and New Rochelle the tentative assessment-roll arranged by streets is published and distributed and thus renders secret discriminations almost impossible. But of even greater influence than these checks, in the judgment of the mayors that have come before us, is the deterrent offered by public opinion. No mayor would dare to tamper with the work of the assessor. By so doing he might gain the friendship of a few, but he would lay himself open to an attack which no administration could withstand.

Assessment Methods

City assessors must avail themselves of the standard assessment methods thus far developed by the more enterprising cities and by the leading mortgage loan and investment companies. In addition to the noteworthy and successful efforts of New York City, Buffalo, New Rochelle, Niagara Falls, Middletown and Fulton, the cities of Newark, New Jersey; Baltimore, Maryland; Cleveland, Ohio; Portland, Oregon; Washington, D. C.; Wilmington, Delaware; Milwaukee, Wisconsin, and Cambridge, Massachusetts, have blazed the trail that leads to scientific assessments. Though many of these cities have been working independently, the systems they have developed show remarkable similarities. From their work there is now emerging what may be called "the science of assessment."

Your Committee is under no delusion as to what can be accomplished and what cannot be accomplished by the introduction of a "scientific system of assessment." Such a system cannot work itself; it is not foolproof; it cannot and should not eliminate the human element; it does not dispense with the need of judgment. On the other hand, it does eliminate all unnecessary guessing; it does furnish the assessor with all the relevant facts upon which his appraisal must rest; it does encourage equality of treatment; it does bring the work of assessment out into the open where the public can know and understand what is going on.

While your Committee has no intention of preparing a manual for local assessors, it may be well to point out the essentials of a good system of assessments based on the experience of the cities of this State. These are:

1. Assessment at 100 per cent of market value.
2. Tax maps showing the metes and bounds of all property within the limits of the taxing district.
3. The block and lot system of indexing property holdings and office records.
4. The adoption of the unit foot system.
5. The adoption of an approved depth rule, corner influence rule, alley influence rule, plottage rule, and such other minor rules as are necessary.
6. The preparation and adoption of a standard building classification with unit factors of building value.
7. The persistent collection of all information bearing on property values and its preservation in readily accessible and permanent form.
8. The installation of modern office necessities, such as wide-carriage typewriters, calculating machines, and files.
9. The preparation of a land value map covering the entire city.
10. The publication of the tentative assessment-roll where practicable.

These essentials are drawn from the working methods of the most successful assessors of the State, and their adoption in any community should bring about not only a higher assessment, but at the same time a fairer assessment.

The Review of Assessments

On the basis of the testimony, your Committee believes that provision should be made for the review of assessments. The failure of present methods of review in second class cities especially, would indicate that the hearing of complaints should not be entirely in the hands of the same man or men who make the original assessments. It would seem that as this review is of a quasi-judicial nature, it should be entrusted to a board rather than to a single man. Except in the largest cities of the State, your Committee believes that this board of review should be composed of the chief assessor, the chief legal official and the chief financial official serving *ex officio*. The experience of our cities indicates that this is entirely practicable and that the board itself will not be compelled to hear any great number of appeals.

A UNIFORM DATE OF ASSESSMENT

One of the very important administrative difficulties created by our complicated State and local tax system is the lack of uniformity as to the dates of assessment of property for taxation. In this State no uniformity whatever prevails as to the date of assessment in the 11,632 tax districts made up of cities, towns, villages and school districts, nor in the numerous special districts, such as the highway, fire, water supply, drainage, garbage, sewer, sidewalk, lighting, lamp, snow removal and river improvement districts.

Present Legal Provisions and Their Results

An annual assessment-roll is required to be made in every city, town, village and school district in the State. The time for the completion of this roll is definitely fixed for towns, but for cities, villages and school districts the time differs from January to December.

For certain assessments the following dates are prescribed:

Banks — conditions as May 1st.

Individual banker — June 1st.

Business corporations, article 9-A — December 31st or fiscal year.

Utility and moneyed corporations, article 9 — October 31st.

Utility companies — December 31st.

Assessment of property in towns — July 1st.

Each city in the State, except those operating under the tax laws, has its own distinct date of assessment and many city charters make no provision whatever for a definite date for the assessment of property.

Village taxes are assessed by separate assessors and there is no fixed date for either assessment or collection.

School taxes may be annually or semi-annually or oftener assessed and no dates are fixed by statute for their assessment

The assessment of the same property for town purposes, village purposes and school district purposes may differ in amount, and it is not unusual for the same property to be assessed in a different amount on the town roll and the village roll.

In many counties special statutes are in force modifying the general law. Under such circumstances it is practically impossible for the ordinary layman or a non-resident to ascertain which of these special statutes are in force, or how they modify the general law.

To indicate the condition in the State as to lack of uniformity in date of assessment, one need only to examine the situation that existed when the legislature passed what was known as the Emerson law, chapter 726, Laws of 1917, article 9-a of the Tax Law. The Legislature found it impossible to fit the new tax to the old system as to local taxes on personal property.

The present lack of uniformity as to the date of assessment in the thousands of tax districts in the State has no merit and creates unnecessary and perplexing situations in local tax administration. Neither is it in accord with the rule prevalent throughout the United States. It is reported that twenty-nine states have a uniform date for the assessment of property taxes and that nineteen other states prescribe a definite period of time within which, or a definite date not later than which, the assessment of taxes shall be made or completed.

One uniform date of assessment in the State need not of necessity change the fiscal year of any tax district nor alter the financial calendar. Neither will it interfere with the work of the local tax official as to field work, preparation of the assessment-roll or with the other duties incident to the making or certification of assessments for collections of taxes.

Recommendations

The recommendations of the Committee concerning the chief assessment problems discussed in this chapter may be summarized as follows:

1. The State Constitution should be amended so that provision may be made for the equitable assessment of railroad and other property which, because of its nature, cannot be satisfactorily or equitably assessed by local officials.
2. The amendment of the State Constitution to permit of the reorganization of the equalization machinery.
3. The taxation of tangible personal property should be provided for through the personal income tax and not through

the direct property tax which should then be amended to exempt tangible personal property.

4. Cities should be authorized by law to reorganize their assessment offices along improved lines.

5. A uniform date of assessment should be established throughout the tax districts of the State.

In accordance with these recommendations, the Committee presents in the appendix of this report the text of an act with regard to assessors in cities and a concurrent resolution with regard to the assessment of property and the equalization of taxes.

APPENDIX

[63]

NO. 1

AN ACT to provide for a department of assessment and taxation in and for the second and third class cities.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Abolishment of the office of assessor and boards of assessors; department of assessment and taxation. The legislative body of each second and third class city, which has not by law abolished the office of assessor and created a department of assessment and taxation is hereby authorized and empowered by ordinance to abolish the office of assessor or assessors or the board of assessors, when such board is not required by charter to be composed of members of the legislative body of the city, and in its place to create, establish and maintain a department of assessment and taxation. Such ordinance shall become effective only after the expiration of the term of office of all assessors, then holding office. In cities where the terms of office of assessors do not expire at the same time, those assessors whose terms of office expire first shall continue in office until the expiration of the terms of office of the other assessors. The commissioner of assessment and taxation shall be the head of such department. He shall be appointed by the same official or body who or which by charter is now authorized to appoint the heads of city departments, and may be removed by the same authority for misconduct or misfeasance in office. The commissioner of assessment and taxation may appoint and at pleasure remove the deputy commissioner of assessment and taxation, deputy assessors, assistants and subordinates as shall be prescribed by the board of estimate and apportionment or other body which is by charter authorized to designate the number of employees. The deputy commissioner of assessment and taxation, if there be one, in the case of the absence or disability of the commissioner or of a vacancy in the office of commissioner, shall discharge the duties of the office until the commissioner returns, his disability ceases or the vacancy is filled. The salaries of the commissioner of taxation and assessment, deputy commissioner and all subordinates shall be fixed in each second class city by the board of estimate

and apportionment and in third class cities by the board or body authorized by charter to fix salaries.

§ 2. Powers and duties. The commissioner of assessment and taxation shall possess all the powers conferred upon, be subject to all the obligations imposed upon, and perform all the duties appertaining to the office of assessors in the towns of the State in reference to the assessment of property within the city, except as otherwise provided by law, or this act, and, except as otherwise provided by this act, shall possess all the powers conferred upon and perform all the duties appertaining to the office of assessors and the board of assessors of such city as provided by law. Except as otherwise provided by this act, he shall also perform all of the duties now provided by law in reference to the assessment of local improvements imposed according to law. It shall also be the duty of the commissioner to install scientific systems of assessment with tax maps, unit rules and such other systems and records as may be necessary, and to gather and file useful and available information that appertains to the value of property subject to his assessment.

§ 3. Board of review. The chief fiscal officer of the city, the legal adviser of the city and commissioner of assessment and taxation are hereby constituted a board of review to hear and determine complaints in relation to the assessment roll provided by law, unless by ordinance some other board of review is created.

§ 4. This act shall take effect immediately.

NO. 2

CONCURRENT RESOLUTION of the Senate and Assembly proposing an amendment to article three of the constitution, in relation to the assessment and collection of taxes and the equalization of assessments.

Section 1. Resolved (if the Assembly concur) that the following section be added to article three of the constitution:

§ 1. The legislature shall prescribe by law how taxable subjects shall be assessed and provide for officers, and the election or appointment of officers, to execute laws relating to the assessment and collection of taxes, and the supervision, review and equalization of assessments.

§ 2. Resolved (if the Assembly concur) that the foregoing amendment be referred to the legislature to be chosen at the next general election of senators, and in conformity with section one of article fourteen of the constitution be published for three months prior to the time of such election.

STATE OF NEW YORK

MESSAGE FROM THE GOVERNOR

RELATIVE TO THE

**DEVELOPMENT OF THE WATER
POWERS OF THE STATE**



**ALBANY
J. B. LYON COMPANY, PRINTERS
1920**

Message from the Governor Relative to the Development of the Water Powers of the State

STATE OF NEW YORK

EXECUTIVE CHAMBER

March 11, 1921.

To the Legislature:

There is pressing need for the development of the potential water powers of the State, and although the adoption of a settled policy is essential to such development, we have been discussing the subject for many years without making appreciable progress. Economic conditions are more and more emphasizing the need of some practical solution of the problem.

The greatest possibilities of development are in the Niagara and the St. Lawrence; but the situation as to each is complicated by the necessity of international agreements which the Federal government alone can make. Twenty thousand cubic feet per second, all that the existing treaty permits, is now being diverted on the American side of the Niagara above the falls. There are various projects for further development, either by diverting more water above the falls; by increasing the head, as can be done by returning the diverted water to the river below the gorge; by diverting the water from the gorge; or by damming the river below the whirlpool rapids. There are a number of companies claiming rights to develop power from the Niagara under special charters which they have been unable to exercise. The company, which is now diverting all that the treaty permits, is the result of a consolidation authorized by the State in 1918, at the request of the War Department, to secure more efficient development of power from the permitted diversion.

The estimates of possible future development, both of the St. Lawrence and the Niagara, vary according to different plans, but the amount in any case is too great not to be utilized.

The subject is further complicated by the Federal Water Power Act under which the Federal government claims jurisdiction over water power development on streams over which Congress had jurisdiction under its authority to regulate commerce. That

authority applies equally to interior and to boundary streams. The most serious objection to the Federal Act, from the standpoint of the State, is the provision under which the Federal government may take over and operate any project on or after the expiration of the fifty years' license provided for in the act. It could thus take over a project even of the State itself.

Congress has jurisdiction over navigable streams, to regulate and improve navigation, and as an incident to the exercise of that power it undoubtedly may authorize the development of water power and the licensing thereof. Of course the Federal government alone can make treaties with respect to boundary streams, and it has jurisdiction of them for the purposes of defence, but the State has title to the bed of navigable streams in trust for all the people and there is no distinction in that respect between boundary and interior streams. Subject only to the Federal powers above enumerated, the State has jurisdiction to control the development of water power in State waters. In my view the Federal Water Power Act is an infringement upon the sovereign power of the State which it appears to me to be the duty of the Attorney-General to resist, and I am advised that steps will be taken as promptly as possible to secure a final adjudication of the question by the United States Supreme Court.

It is unnecessary, however, for the State to delay the adoption of a policy pending such decision, for however the conflict of authority between the State and the Federal government may be resolved, it will still be necessary for the State to adopt a policy which as far as I can see will not be affected by such decision. Indeed, the Federal Act makes it more important than ever that a definite policy be adopted, because an applicant for a permit or license under the Federal Act must present evidence of compliance with the laws of the State, and the act reserves to the State full regulatory powers, including the control of rates, the right to charge rentals for the use of its rights and to expropriate excessive profits.

I am advised that at least a million continuous additional horsepower can be developed from interior streams of the State, provided the maximum development and use be secured. In some cases the State owns the bed of the streams involved. In other cases, title is in riparian owners. Some of those streams are under the jurisdiction of Congress for the regulation and improvement of navigation, others are not.

The international and other complications affecting boundary streams may delay important developments in the Niagara and St. Lawrence. We should strive to eliminate those complications, but meanwhile the State should not suffer a million potential horsepower on interior streams to go to waste. A million horsepower means ten million tons of coal, to say nothing of the other direct and indirect benefits from the use of hydro-electric power.

The great question of policy first to be settled is whether the State should itself undertake to develop the available power, or should encourage private enterprise to do it. If the public interest can adequately be safeguarded, there is no doubt but that private development will be more efficient and therefore best for the consumer in the long run.

The Federal Water Power Act appears to be carefully drawn to prevent the exploitation of the public resources for private gain. I believe that a State Act drawn along somewhat similar lines can be made efficacious to secure to all of the people of the State the benefits to be derived from the development of the State's natural resources. Any plan or any policy, which does not assure the maximum development of the potential hydro-electric energy of the State for the benefit of all the people of the State, should be rejected.

Licensees should be subject to the jurisdiction of the Public Service Commission to regulate capital issues, rates and service. All diversion and use of State waters without a license under the act should be prohibited, except such as are now actually and lawfully made.

It will not be necessary to close the door upon State development in case capital should be unwilling to enter a field in which the public interests are safeguarded as I have indicated.

The general benefit from water power development may be secured in two ways, viz.:

1. By taxation.
2. By cheapening the cost of power.

Under any proper system of safeguards, the ultimate consumer will bear whatever taxes are imposed and it does not appear to me to be wise policy for the State to seek to make the proposed development revenue producing beyond reasonable recompense for the use of State lands or property and reasonable charges for the costs of administration. From the standpoint of revenue alone, the State is likely to gain most from a policy which will

stimulate its industrial development. Of course I am speaking of development of power for distribution to the public, not of private development for private use.

I, therefore, recommend the passage of a licensing act along the general lines of the Federal Act, with careful provisions to safeguard the public interests as hereinbefore indicated.

In order to assure maximum development, the act should confer discretion on the Water Power Commission so that licenses may only be granted for projects which provide for the maximum development of a given stream, water-shed or territory.

Undoubtedly maximum use and economy of hydro-electric power will result only from some common method of transmission by which the widest distribution may be secured, and thus the variable factors, both of use and development, ameliorated as much as possible. Steam and hydro-electric power must supplement each other and it is undoubtedly true that tremendous economies would result if all power could be converted into electrical energy and by a common transmission system made to serve all users within a given zone. If the potential energy of coal and water could be utilized in common by the most economical generation of each and a common distribution of both, true conservation of energy would result.

That is not an idle dream. Of course, such a project would assume interstate proportions and would doubtless require concurrent action by the States in a given zone and the Federal government. Such a project involving the North Atlantic Seaboard States, is now being scientifically studied under an authorization by Congress.

I have indicated an ultimate and I believe a practical goal. We can only hope to reach it by degrees. Meanwhile, as far as the State of New York is concerned, it appears to me that its first step should be to make possible the development of its own water powers by the adoption of a policy which will make it practicable for private initiative to undertake the task under safeguards which will protect the public interest.

The condemnation law in relation to this subject should be clarified and made more effective, and as it is so germane to the subject I suggest that suitable provisions governing the exercise of the power of eminent domain by licensees of the State be incorporated in the act.

State lands within the forest preserve will be required for approximately one hundred thousand horsepower of the possible development, but not more than is now permitted by Section 7 of Article 7 of the State Constitution for reservoirs, for water supply and to regulate the flow of streams. Those purposes do not include power development, and I recommend that an amendment of Section 7 of Article 7 of the State Constitution be submitted so as to include power development among said uses, but retaining the present limitation of three per centum of forest preserve lands as the maximum to be used for all purposes.

A concurrent resolution was adopted by the Legislature last year, but it appears to me to be fatally defective in at least one essential particular. The present provision provides for the apportionment of the expense of an improvement on the public or private property and municipalities benefited, to the extent of the benefits received. That provision is not applicable to a power development and yet the resolution adopted is so drawn as to make it apply. I recommend the careful consideration of this subject and the submission of a workable amendment.

(Signed) NATHAN L. MILLER.

STATE OF NEW YORK

REPORT OF THE COMPTROLLER

ON THE

Expenditures of the Canals

For the Year Ended June 30, 1920



ALBANY

J. B. LYON COMPANY, PRINTERS

1921

STATE OF NEW YORK:

ALBANY, *December* 31, 1920

SIR.— I have the honor herewith to transmit the annual report of the Comptroller exhibiting the financial transactions and the condition of the finances of the State relating to canals for the year ended June 30, 1920.

Respectfully yours,

J. A. W. W. W.
Comptroller.

REPORT

STATE OF NEW YORK:

COMPTROLLER'S OFFICE, BUREAU OF CANAL AFFAIRS,

ALBANY, December 31, 1920

To the Legislature:

The Comptroller herewith submits the annual statement of the receipts and expenditures on account of the canals, and the canal debt, the balance of funds on hand in the treasury, the depositories and investments of the same and the condition thereof for the year ended June 30, 1920.

	Securities	Cash	Total
Balance, July 1, 1919.....	\$40,109,616 58	\$6,519,315 41	\$46,628,931 99
Less unexpended balance in hands of Superintendent of Public Works and division engineers, July 1, 1919.....		218,819 80	218,819 80
	\$40,109,616 58	\$6,300,495 61	\$46,410,112 19
RECEIPTS	Deduct 300,300 86	Add 300,300 86	
Par value of securities sold or redeemed..		17,527,898 88	17,527,898 88
Other receipts.....			
	\$39,809,315 72	\$24,128,695 35	\$63,938,011 07
EXPENDITURES	Add 3,567,371 91	Deduct 3,428,966 41	Add discount 138,406 50
Par value of securities purchased.....		14,027,173 33	14,027,173 33
Other expenditures.....			
	\$43,376,687 63	\$6,672,555 61	\$50,049,243 24
Add unexpended balances in hands of Superintendent of Public Works and division engineers, June 30, 1920.....		192,674 68	192,674 68
	\$43,376,687 63	\$6,865,230 29	\$50,241,917 92

The foregoing balances of securities and cash are applicable to the following funds.

FUNDS	Securities	CASH		Total
		In bank	Unexpended balances	
Sinking Funds for the Redemption of the Canal Debt:				
Under article 7, section 4, of the Constitution and chapter 147 of the Laws of 1903	\$2,011,028 11	\$104,367 87	.....	\$2,115,395 98
Under article 7, section 4, of the Constitution and chapters 147 and 302 of the Laws of 1903 and 1906	16,494,161 08	105,106 82	.....	16,599,267 90
Under article 7, section 4, of the Constitution and chapters 147 and 66 of the Laws of 1903 and 1910	9,421,889 24	38,181 71	.....	9,460,070 95
Under article 7, section 4, of the Constitution and chapters 391 and 139 of the laws of 1909 and 1910	666,526 63	74,067 08	.....	740,593 71
Under article 7, section 4, of the Constitution and chapter 746 of the laws of 1911	1,136,500 00	241,460 69	.....	1,397,960 69
Under article 7, section 4, of the Constitution and chapters 147 and 787 of the laws of 1903 and 1913	6,774,300 00	80,820 10	.....	6,855,120 10
Under article 7, section 4, of the Constitution and chapters 391, 787 and 2 of the laws of 1909, 1913 and 1915	467,750 00	130,356 59	.....	598,106 59
Under article 7, section 4, of the Constitution and chapters 746, 787 and 2 of the laws of 1911, 1913 and 1915	952,350 00	251,689 24	.....	1,204,039 24
Under article 7, section 4, of the Constitution and chapters 147 and 2 of the laws of 1903 and 1915	864,508 00	241,112 05	.....	1,105,620 05
Under article 7, section 4, of the Constitution and chapters 570 and 2 of the laws of 1915	3,331,074 57	135,218 10	.....	3,466,292 67
Under article 7, section 4, of the Constitution and chapters 746 and 2 of the laws of 1911 and 1915	787,000 00	238,971 15	.....	1,025,971 15
Total Sinking Funds	\$42,907,087 63	\$1,661,351 40	.....	\$44,568,439 03
Maintenance and repairs .....	.....	1,384,950 39	\$150,000 00	1,534,950 39
Fund for the construction of the Erie, Champlain and Oswego canals, chapter 147, laws of 1903	469,600 00	1,157,068 38	28,535 22	1,655,223 60
Fund for the construction of the Cayuga and Seneca barge canal .....	.....	104,449 90	792 12	105,242 02
Fund for the construction of barge canal terminals .....	.....	2,364,715 54	13,247 34	2,378,062 88
	\$43,376,687 63	\$6,672,555 61	\$192,674 66	\$50,241,917 93

*The relations of the Canal Debt Sinking Funds to the Canal Debt
are shown in the following:*

Comparative statement as of the close of the year ended
June 30, 1920.

CHARACTER OF DEBT	SINKING FUND			Amount of debt
	Securities	Cash	Total	
Interest bearing canal debt:				
Loan at 3 per cent. for construction of the Erie, Champlain and Oswego canals, pursuant to chapter 147, Laws of 1903, and amendments:				
Redeemable January 1, 1923.	\$2,011,028 11	\$104 367 87	\$2,115,395 98	\$2,000 000 00
Redeemable January 1, 1956.	.....	.....	.....	\$1,000,000 00
Redeemable January 1, 1957.	.....	.....	.....	5,000,000 00
Redeemable July 1, 1958.	.....	.....	.....	5,000,000 00
Redeemable January 1, 1959.	.....	.....	.....	10,000,000 00
	16,494,161 08	105,106 82	16,599,267 90	21 000 000 00
Loan at 4 per cent. for construction of the Erie, Champlain and Oswego canals, pursuant to chapter 147, Laws of 1903, and amendments:				
Redeemable July 1, 1960.	.....	.....	.....	10 000 000 00
Redeemable January 1, 1961.	.....	.....	.....	10 000 000 00
Redeemable July 1, 1961.	.....	.....	.....	10 000 000 00
Redeemable January 1, 1962.	.....	.....	.....	10 000 000 00
	9,421,899 24	38,181 71	9,460,070 95	140 000 000 00
Loan at 4½ per cent. for construction of the Erie, Champlain and Oswego canals, pursuant to chapter 147, Laws of 1903, and amendments:				
Redeemable January 1, 1964.	6,774,300 00	80,820 10	6,855,120 10	130,000,000 00
Loan at 4½ per cent. for construction of the Erie, Champlain and Oswego canals, pursuant to chapter 147, Laws of 1903, and amendments:				
Redeemable January 1, 1965.	864,508 00	241,112 05	1,105,620 05	\$9,000 000 00
Loan at 4 per cent. for construction of the Erie, Champlain and Oswego canals, pursuant to chapter 570, Laws of 1915:				
Redeemable January 1, 1966.	.....	.....	.....	\$17,000,000 00
Redeemable January 1, 1967.	.....	.....	.....	10,000,000 00
	3,331,074 57	135,218 10	3,466,292 67	\$27,000,000 00
Loan at 4 per cent. for construction of Cayuga and Seneca Barge canal, pursuant to chapter 391, Laws of 1906, and amendments:				
Redeemable July 1, 1960.	.....	.....	.....	\$1,000,000 00
Redeemable January 1, 1962.	.....	.....	.....	2,000,000 00
	666,826 63	74,067 08	740,893 71	\$3,000,000 00

Comparative Statement Canal Debt Sinking Funds — (Cont'd)

CHARACTER OF DEBT	SINKING FUND			Amount of debt
	Securities	Cash	Total	
Loan at 4½ per cent. for construction of Cayuga and Seneca Barge canal, pursuant to chapter 391, Laws of 1909, and amendments: Redeemable January 1, 1965.	\$467,759 00	\$130,356 59	\$598,106 59	\$4,000,000 00
Loan at 4 per cent. for construction of barge canal terminals, pursuant to chapter 746, Laws of 1911, and amendments: Redeemable January 1, 1942.	1,136,500 00	261,460 69	1,397,960 69	\$5,000,000 00
Loan at 4½ per cent. for construction of Barge canal terminals, pursuant to chapter 746, Laws of 1911, and amendments: Redeemable January 1, 1945.	952,350 00	251,689 24	1,204,039 24	\$5,000,000 00
Loan at 4 per cent. for construction of Barge canal terminals, pursuant to chapter 746, Laws of 1911, and amendments: Redeemable January 1, 1946.	787,000 00	238,971 15	1,025,971 15	\$3,000,000 00
Total canal debt sinking funds and canal debt.....	\$42,907,067 63	\$1,661,351 40	\$44,568,439 03	\$148,000,000 00

The details of the foregoing statements are submitted in the subjoined pages.

Very respectfully,

JAMES A. WENDELL,

Comptroller.

DOCUMENTS ACCOMPANYING THE REPORT OF THE COMPTROLLER

STATEMENT SHOWING SECURITIES AND CASH IN THE CANAL FUNDS, JUNE 30, 1919, THE RECEIPTS AND EXPENDITURES DURING THE YEAR, AND THE SECURITIES AND CASH IN THE CANAL FUNDS JUNE 30, 1920.

	Canal debt sinking funds	Construction funds	Maintenance and repair funds	Total
Balance in funds June 30, 1919.	\$40,507,642 96	\$4,698,582 51	\$1,422,706 52	\$46,628,931 99
Less securities in funds.....	39,640,016 58	469,600 00	.....	40,109,616 58
Less unexpended balances in hands of Superintendent of Public Works and division engineers.....	.....	62,582 51	156,237 29	218,819 80
Cash in bank July 1, 1919.	\$867,626 38	\$4,166,400 00	\$1,266,469 23	\$6,300,495 61
RECEIPTS DURING THE YEAR				
Into the canal debt sinking funds from General Fund the annual contribution to said funds, being an amount equal to the proceeds of a State tax on real and personal prop- erty in the State subject to taxation.....	\$8,139,618 00	.....	.....	\$8,139,618 00
Into the canal fund from general fund on account of approp- riations payable from the canal fund.....	.....	\$2,130,000 00	\$3,215,314 59	5,345,314 59
Par value of securities sold or re- deemed.....	300,300 86	.....	.....	300,300 86
Interest on investments.....	1,503,048 99	.....	.....	1,503,048 99
Interest on deposits.....	190,813 80	.....	28,031 18	218,844 78
Temporary certificates issued.....	.....	2,000,000 00	.....	2,000,000 00
Miscellaneous receipts.....	.....	317,791 98	3,280 54	321,072 52
Total receipts.....	\$10,133,781 45	\$4,447,791 98	\$3,246,626 31	\$17,828,199 74

STATEMENT SHOWING SECURITIES, ETC.— (Continued)

	Canal debt sinking funds	Construction funds	Maintenance and repair funds	Total
EXPENDITURES DURING THE YEAR				
<i>Superintendent of Public Works</i>				
Maintenance and repairs.....			\$2,587,008 90	\$2,587,008 90
Construction of Erie, Cham- plain and Oswego canals.....		\$1,728,164 41		1,728,164 41
Construction of Cayuga and Seneca Barge canal.....		16,889 98		16,889 98
Construction of barge canal terminals.....		1,443,029 96		1,443,029 96
<i>Division Engineers</i>				
Maintenance and repairs.....			193,283 16	193,283 16
Construction of Erie, Cham- plain and Oswego canals.....		340,500 00		340,500 00
Construction of barge canal terminals.....		177,052 69		177,052 69
<i>Comptroller's Office — Bureau of Canal Affairs</i>				
Salaries of clerks, stenographer, etc.....		16,843 28	8,775 00	25,618 28
Transfer office — services and expenses.....			6,000 00	6,000 00
Miscellaneous expenses.....		4,280 02	2,037 27	6,317 29
<i>Attorney-General</i>				
Expenses of searches, etc.:				
Construction of Erie, Cham- plain and Oswego canals.....		4,211 70		4,211 70
Completion of construction of Cayuga and Seneca barge canal.....		67 87		67 87
Construction of barge canal terminals.....		2,165 09		2,165 09
Salaries of deputies, title ex- aminers, etc.....		84,233 74		84,233 74
<i>Damages on Account of Con- struction</i>				
Erie, Champlain and Oswego canals.....		581,752 05		581,752 05
Cayuga and Seneca barge canal.....		12,927 09		12,927 09
Barge canal terminals.....		464,869 17		464,869 17
<i>Damages to Contractors</i>				
Erie, Champlain and Oswego canals.....		31,805 88		31,805 88
Barge canal terminals.....		792 12		792 12
<i>Damages on Account of Existing Canals</i>				
Judgments of the court of claims.....			46,240 90	46,240 90
<i>Investigation of Claims</i>				
Services and expenses of agent:				
Construction of Erie, Cham- plain and Oswego canals.....		56,818 52		56,818 52
Completion of construction of Cayuga and Seneca barge canal.....		1,189 99		1,189 99
Construction of barge canal terminals.....		11,344 60		11,344 60
<i>Miscellaneous:</i>				
Removal of tide gates and con- struction of lock — Shin- necook and Peconic canal.....			35,000 00	35,000 00
Reimbursing city of North Tonawanda for paving that portion of Tremont street within the State blue-line.....			788 55	788 55

STATEMENT SHOWING SECURITIES, ETC.— (Concluded)

	Canal debt sinking funds	Construction funds	Maintenance and repair funds	Total
<i>Transfer of Surplus</i>				
From canal fund to general fund, per chapter 267, Laws of 1913.....			\$248,921 37	\$248,921 37
<i>Canal Debt Sinking Fund</i>				
Par value of se- curities pur- chased..... \$3,567,371 91				
Less discount in purchase of bonds..... 138,405 50	\$3,428,966 41			3,428,966 41
Premium and accrued interest on securities purchased.....	27,930 02			27,930 02
Interest on outstanding debt....	5,882,500 00			5,882,500 00
Extinguishment of non-interest bearing debt of six per centum canal stock of the Erie and Champlain canal redeemable July 1, 1837, pursuant to chapter 407, Laws of 1920....	160 00			160 00
Extinguishment of outstanding stock for payment of six per centum canal revenue certifi- cates redeemable July 1, 1873, pursuant to chapter 407, Laws of 1920.....	500 00			500 00
Total expenditures dur- ing the year.....	\$9,340,056 43	\$4,987,938 16	\$3,128,145 15	\$17,456,139 74
Cash in bank June 30, 1920....	\$1,661,351 40	\$3,628,253 82	\$1,384,950 3	\$6,672,555 61
Add securities in funds.....	42,907,087 63	469,600 00		43,376,687 63
Add unexpended balances in hands of Superintendent of Public Works and division engineers.....		42,674 68	150,000 00	192,674 68
Balance in funds June 30, 1920.....	\$44,568,439 03	\$4,138,528 50	\$1,534,950 39	\$50,241,917 92

THE CASH IN THE TREASURY ON JUNE 30, 1920 TO THE CREDIT OF THE CANAL FUND, WAS ON DEPOSIT IN THE FOLLOWING INSTITUTIONS IN THE AMOUNTS NAMED.

DEPOSITS IN CITIES.

Albany:

New York State National Bank.....	\$1,493,555 61
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DEPOSITS OUTSIDE OF CITIES.

Adams:

Citizens' Trust Co.....	\$100,000 00
Farmers' National Bank.....	39,000 00

Albion:

Citizens' National Bank.....	50,000 00
Orleans Co. Nat. Bank.....	17,000 00

Alexandria Bay:

First Nat. Bank of the Thousand Islands..	19,000 00
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Allegany:

First National Bank	15,000 00
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Altamont:

First National Bank	10,000 00
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Amityville:

Bank of Amityville.....	9,500 00
First National Bank.....	9,500 00

Andover:

Burrows National Bank.....	9,000 00
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Angola:

Bank of Angola	14,000 00
Evans National Bank	5,000 00

Antwerp:

Bank of Antwerp.....	8,000 00
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Arcade:

Citizens' Bank	8,000 00
First National Bank.....	19,000 00

Argyle:

First National Bank.....	11,000 00
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<i>Athens:</i>	
Athens National Bank.....	5,000 00
<i>Attica:</i>	
Bank of Attica.....	10,000 00
Citizens' Bank	16,000 00
<i>Ausable Forks:</i>	
Bank of Ausable Forks	19,000 00
<i>Baldwinsville:</i>	
First National Bank.....	16,000 00
<i>Barker:</i>	
Somerset National Bank.....	13,000 00
<i>Bath:</i>	
Bath National Bank.....	17,000 00
Farmers & Mechanics Bank.....	21,000 00
<i>Bay Shore:</i>	
First National Bank.....	11,000 00
<i>Belfast:</i>	
Bank of Belfast.....	18,000 00
First National Bank.....	7,500 00
<i>Berlin:</i>	
Taconic Valley Bank.....	12,500 00
<i>Bliss:</i>	
Bliss National Bank.....	5,500 00
<i>Boonville:</i>	
First National Bank	5,000 00
National Exchange Bank.....	11,500 00
<i>Brockport:</i>	
State Bank of Commerce.....	16,000 00
<i>Bronxville:</i>	
Gramatan Nat. Bank.....	19,000 00
<i>Brushton:</i>	
First National Bank.....	8,000 00
<i>Caledonia:</i>	
First National Bank.....	5,000 00
<i>Callicoon:</i>	
Callicoon National Bank.....	12,000 00
<i>Canajoharie:</i>	
Canajoharie National Bank.....	25,000 00

<i>Canisteo:</i>	
First State Bank	16,000 00
<i>Canton:</i>	
First National Bank.....	44,000 00
<i>Cape Vincent:</i>	
Citizens' Bank	10,000 00
<i>Carthage:</i>	
Carthage National Bank.....	35,000 00
National Exchange Bank.....	28,000 00
<i>Castile:</i>	
Bank of Castile.....	5,000 00
<i>Castleton:</i>	
National Exchange Bank.....	12,000 00
<i>Cattaraugus:</i>	
Bank of Cattaraugus.....	24,000 00
<i>Central Square:</i>	
First National Bank.....	9,000 00
<i>Chatham:</i>	
State Bank	40,000 00
<i>Churchville:</i>	
State Bank	8,000 00
<i>Clayton:</i>	
First National Bank.....	16,000 00
National Exchange Bank.....	8,000 00
<i>Clayville:</i>	
National Bank	5,000 00
<i>Clymer:</i>	
Clymer State Bank.....	8,000 00
<i>Cobleskill:</i>	
Farmers & Mer. Bank.....	5,000 00
<i>Cooperstown:</i>	
Cooperstown National Bank.....	15,000 00
First National Bank.....	20,000 00
Second National Bank.....	21,000 00
<i>Corfu:</i>	
Bank of Corfu.....	13,000 00

BANK BALANCES

15

<i>Corinth:</i>	
Corinth National Bank	16,000 00
<i>Cornwall:</i>	
Cornwall National Bank	16,000 00
<i>Croton-on-Hudson:</i>	
First National Bank	8,000 00
<i>Cuba:</i>	
First National Bank	20,000 00
Cuba National Bank	15,000 00
<i>Delevan:</i>	
Bank of Delevan	11,000 00
<i>Delhi:</i>	
Delaware National Bank	15,000 00
<i>Depew:</i>	
Bank of Depew	15,000 00
<i>Deposit:</i>	
Farmers' National Bank	20,000 00
<i>Dolgeville:</i>	
First National Bank	27,000 00
<i>Downsville:</i>	
First National Bank	13,000 00
<i>Earlville:</i>	
First National Bank	23,000 00
<i>East Aurora:</i>	
Bank of East Aurora	22,000 00
Erie County Trust Co.	20,000 00
<i>East Hampton:</i>	
Osborne Bank	22,000 00
<i>East Islip:</i>	
First National Bank	5,000 00
<i>East Rochester:</i>	
First National Bank	8,000 00
<i>East Syracuse:</i>	
Bank of East Syracuse	10,000 00
<i>Elba:</i>	
Bank of Elba	8,000 00
<i>Evans Mills:</i>	
People's Bank	10,000 00

Farmingdale:

Bank of Farmingdale	12,000 00
First National Bank	13,000 00

Fillmore:

State Bank	19,000 00
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Fleischmanns:

Citizens Bank of Griffin Corners	11,000 00
First National Bank of Griffin Corners ...	2,000 00

Florida:

Florida National Bank	15,000 00
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Fonda:

National Mohawk River Bank	22,000 00
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Forestville:

First National Bank	7,000 00
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Frankfort:

Citizens' National Bank	14,000 00
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Franklinville:

Union National Bank	19,000 00
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Fredonia:

Citizens' Trust Co.	25,000 00
National bank	17,000 00

Freeport:

Freeport Bank	10,000 00
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Fultonville:

Fultonville National Bank	12,000 00
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Gainesville:

Gainesville National Bank	15,000 00
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Geneseo:

Livingston County Trust Co.	34,000 00
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Goshen:

National Bank of Orange County	25,000 00
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Gouverneur:

Bank of Gouverneur	36,000 00
First National Bank	40,000 00

Grand Gorge:

First National Bank	8,000 00
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Granville:

Farmers' National Bank	23,000 00
Granville National Bank	18,000 00
Washington County National Bank	18,000 00

Greenwich:

First National Bank	24,000 00
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Greenwood:

First National Bank	7,500 00
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Hamburg:

Bank of Hamburg	19,000 00
People's Bank	26,000 00

Hamilton:

National Hamilton Bank	28,000 00
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Hammond:

Citizens' National Bank	11,000 00
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Hammondsport:

Bank of Hammondsport	16,000 00
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Hancock:

First National Bank	8,000 00
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Hastings-upon-Hudson:

First National Bank	18,000 00
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Haverstraw:

National Bank	23,000 00
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Hempstead:

First National Bank	36,000 00
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Herkimer:

Herkimer National Bank	54,000 00
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Heuvelton:

First National Bank	11,000 00
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Highland:

First National Bank	25,000 00
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Highland Falls:

First National Bank	17,000 00
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Hilton:

State Bank of Hilton	8,000 00
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Hobart:

National Bank	20,000 00
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<i>Holcomb:</i>		
Hamlin National Bank	18,000	00
<i>Holland:</i>		
Bank of Holland	15,000	00
<i>Holland Patent:</i>		
First National Bank	10,000	00
<i>Holley:</i>		
State Exchange Bank	19,000	00
<i>Homer:</i>		
Homer National Bank	5,000	00
<i>Hoosick Falls:</i>		
First National Bank	29,000	00
People's National Bank	25,000	00
<i>Hudson Falls:</i>		
Hudson Falls National Bank	20,000	00
People's National Bank	26,000	00
Sandy Hill National Bank	26,000	00
<i>Huntington:</i>		
Bank of Huntington	27,000	00
First National Bank	19,000	00
<i>Ilion:</i>		
Ilion National Bank	40,000	00
<i>Islip:</i>		
First National Bank	8,000	00
<i>Jeffersonville:</i>		
First National Bank	11,000	00
<i>Johnson City:</i>		
Workers' Trust Co.	14,000	00
<i>Kenmore:</i>		
State Bank of Kenmore.....	25,000	00
<i>Lake George:</i>		
First National Bank	5,000	00
<i>Lake Placid:</i>		
Bank of Lake Placid	12,000	00
<i>Lancaster:</i>		
Bank of Lancaster	19,000	00
<i>Larchmont:</i>		
Larchmont National Bank.....	19,000	00

Lawrence:

Bank of Lawrence 23,000 00

LeRoy:

LeRoy National Bank 16,000 00

Liberty:

National Bank 12,000 00

Sullivan County National Bank 29,000 00

Lindenhurst:

First National Bank 8,000 00

Little Valley:

Cattaraugus County Bank 9,000 00

Livonia:

Livonia State Bank 9,000 00

Locke:

Citizens' Bank 17,000 00

Lyndonville:

Citizens' State Bank 16,000 00

Lyons:

Gavitt National Bank 29,000 00

Malone:

Farmers National Bank 75,000 00

People's Trust Co. 50,000 00

Mamaroneck:

First National Bank 29,000 00

Marathon:

First National Bank 12,000 00

Marcellus:

First National Bank 8,000 00

Marion:

First National Bank 5,000 00

Mayville:

State Bank 13,000 00

Medina:

Central Bank of Medina 19,000 00

Union Bank 20,000 00

Middleport:

First National Bank 17,000 00

Millbrook:

Bank of Millbrook	10,000 00
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Milford:

Milford National Bank	12,000 00
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Mineola:

Nassau County Trust Co.	22,000 00
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Monroe:

Monroe National Bank	12,000 00
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Montour Falls:

Montour National Bank	9,000 00
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Morris:

First National Bank	12,000 00
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Morristown:

Frontier National Bank	8,000 00
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Mt. Morris:

Genesee River National Bank	18,000 00
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Newark:

Arcadia National Bank	36,000 00
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New Berlin:

National Bank	22,000 00
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Newfane:

State Bank	5,000 00
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North Collins:

Bank of North Collins	22,000 00
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North Creek:

North Creek National Bank	12,000 00
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Northport:

First National Bank	14,000 00
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Northport Trust Co.	25,000 00
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North Rose:

First National Bank	11,000 00
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Nyack:

Nyack National Bank	25,000 00
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Rockland County Trust Co.	25,000 00
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Oakfield:

The Exchange Bank	8,000 00
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<i>Old Forge:</i>	
First National Bank	5,000 00
<i>Onondaga Valley:</i>	
Bank of Onondaga	12,000 00
<i>Orchard Park:</i>	
Bank of Orchard Park	8,000 00
<i>Oriskany Falls:</i>	
First National Bank	16,000 00
<i>Ossining:</i>	
First National Bank	25,000 00
Ossining National Bank	25,000 00
<i>Owego:</i>	
Owego National Bank	16,000 00
<i>Parish:</i>	
State Bank	7,500 00
<i>Patchogue:</i>	
Citizens' Trust Co.	32,000 00
Patchogue Bank	25,000 00
<i>Pearl River:</i>	
First National Bank	8,000 00
<i>Peekskill:</i>	
Peekskill National Bank	50,000 00
Westchester County National Bank	90,000 00
<i>Penn Yan:</i>	
Baldwin's Bank	32,000 00
Citizens' Bank	25,000 00
<i>Perry:</i>	
Citizens' Bank	22,000 00
First National Bank	18,000 00
<i>Phelps:</i>	
Phelps National Bank	8,000 00
<i>Philadelphia:</i>	
Bank of Philadelphia	14,000 00
<i>Philmont:</i>	
First National Bank	16,000 00
<i>Pleasantville:</i>	
Mount Pleasant Bank	19,000 00

Poland:

Citizens' National Bank	18,000 00
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Port Chester:

First National Bank	40,000 00
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Mutual Trust Company of Westchester Co. .	50,000 00
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Port Jefferson:

Bank of Port Jefferson	17,000 00
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Port Washington:

Bank of No. Hempstead	19,000 00
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Potsdam:

Citizens' National Bank	32,000 00
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Prattsburgh:

Prattsburgh State Bank	13,000 00
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Pulaski:

People's National Bank	20,000 00
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Pulaski National Bank	5,000 00
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Randolph:

State Bank of Randolph	16,000 00
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Red Creek:

Red Creek National Bank	10,000 00
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Redwood:

Redwood National Bank	8,000 00
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Richfield Springs:

First National Bank	22,000 00
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Richmondville:

Bank of Richmondville	17,000 00
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Ripley:

First National Bank	11,000 00
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Riverhead:

Suffolk County National Bank	20,000 00
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Suffolk County Trust Co.	26,000 00
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Rockville Center:

Bank of Rockville Center	50,000 00
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First National Bank	8,000 00
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Roscoe:

First National Bank	20,000 00
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BANK BALANCES

23

<i>Roxbury:</i>	
National Bank	17,000 00
<i>Rushville:</i>	
Rushville State Bank	11,000 00
<i>Rye:</i>	
Rye National Bank	8,000 00
<i>Salem:</i>	
People's National Bank	8,000 00
<i>Savona:</i>	
Savona National Bank	5,000 00
<i>Schenevus:</i>	
Schenevus National Bank	20,000 00
<i>Schoharie:</i>	
Schoharie County Bank	13,000 00
<i>Seneca Falls:</i>	
Exchange National Bank	70,000 00
<i>Sharon Springs:</i>	
First National Bank	8,000 00
<i>Sherman:</i>	
State Bank	8,000 00
<i>Shortsville:</i>	
State Bank	5,000 00
<i>Sidney:</i>	
Sidney National Bank	29,000 00
<i>Silver Creek:</i>	
First National Bank	20,000 00
Silver Creek National Bank	16,000 00
<i>Silver Springs:</i>	
Silver Springs National Bank	12,000 00
<i>Smithtown Branch:</i>	
National Bank of Smithtown Branch	13,000 00
<i>Solvay:</i>	
Solvay Bank	18,000 00
<i>South Dayton:</i>	
Bank of South Dayton	30,000 00

<i>South Glens Falls:</i>	
First National Bank	12,000 00
<i>Southampton:</i>	
First National Bank	17,000 00
Southampton Bank	21,000 00
<i>Southold:</i>	
Bank of Southold	5,000 00
<i>Sparkill:</i>	
First National Bank	13,000 00
<i>Spencerport:</i>	
Bank of Spencerport	8,000 00
<i>Springville:</i>	
Citizens' National Bank	25,000 00
Farmers' Bank	12,000 00
<i>Springwater:</i>	
Springwater State Bank	5,000 00
<i>Stamford:</i>	
National Bank of Stamford	32,000 00
<i>Stony Brook:</i>	
Bank of Suffolk County	5,000 00
<i>Theresa:</i>	
Farmers' National Bank	14,000 00
State Bank	10,000 00
<i>Trumansburg:</i>	
First National Bank	10,000 00
State Bank	10,000 00
<i>Tuckahoe:</i>	
First National Bank	12,000 00
<i>Tully:</i>	
First National Bank	10,000 00
<i>Tuxedo:</i>	
Tuxedo National Bank	5,000 00
<i>Unadilla:</i>	
Unadilla National Bank	10,000 00
<i>Vernon:</i>	
National Bank	29,000 00

<i>Walton:</i>	
First National Bank	75,000 00
<i>Warrensburg:</i>	
Emerson National Bank	10,000 00
<i>Warsaw:</i>	
Trust Company Wyoming County	43,000 00
Wyoming County National Bank	75,000 00
<i>Waterford:</i>	
Bank of Waterford	15,000 00
<i>Waterloo:</i>	
First National Bank	18,000 00
<i>Waterville:</i>	
National Bank	29,000 00
<i>Watkins:</i>	
Glen National Bank	19,000 00
Watkins State Bank.....	18,000 00
<i>Waverly:</i>	
Citizens' Bank	16,000 00
First National Bank.....	18,000 00
<i>Wayland:</i>	
First National Bank.....	20,000 00
<i>Wellsville:</i>	
Citizens' National Bank.....	29,000 00
First Trust Co.....	44,000 00
<i>Westbury:</i>	
Bank of Westbury	5,000 00
<i>Westfield:</i>	
National Bank	25,000 00
<i>Westport:</i>	
Lake Champlain National Bank.....	12,000 00
<i>Whitesboro:</i>	
Whitestown National Bank.....	5,000 00
<i>Whitehall:</i>	
National Bank	18,000 00
<i>Williamson:</i>	
State Bank	29,000 00
<i>Williamsville:</i>	
Bank of Williamsville.....	5,000 00

Wilson:

Wilson State Bank.....	10,000 00
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Worcester:

Bank of Worcester.....	25,000 00
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Total Canal Fund Outside of Cities..	\$5,179,000 00
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SUMMARY

Total Canal Fund in Cities	\$1,493,555 61
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Total Canal Fund Outside of Cities.....	5,179,000 00
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Total Cash in Treasury June 30, 1920.....	\$6,672,555 61
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STATEMENT OF CASH BALANCES, OBLIGATIONS AND INVESTMENTS
LEADING INTO SURPLUS ACCOUNT FOR THE YEAR ENDING JUNE
30, 1920:

Cash in the Treasury at end of year	\$6,672,555 61
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Which is subject to the following obligations:

Uninvested moneys of Canal

Debt Sinking Fund:

Under article 7, section 4 of the Constitution, and chapter 147, Laws of 1903.....	104,367 87
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Under article 7, section 4 of the Constitution, and chapter 147, Laws of 1903, and chap- ter 302, Laws of 1906.....	105,106 82
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Under article 7, section 4 of the Constitution, and chapter 147, Laws of 1903, and chap- ter 66, Laws of 1910.....	38,181 71
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Under article 7, section 4 of the Constitution, and chapter 391, Laws of 1909, and chap- ter 139, Laws of 1910.....	74,067 08
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Under article 7, section 4 of the Constitution, and chapter 746, Laws of 1911.....	261,460 69
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Under article 7, section 4 of the Constitution, and chapter 147, Laws of 1903, and chap- ter 787, Laws of 1913	80,820 10
Under article 7, section 4 of the Constitution, and chapter 391, Laws of 1909, and chap- ter 787 and 2, Laws of 1913 and 1915	130,356 59
Under article 7, section 4 of the Constitution, and chapter 746, Laws of 1911, and chap- ters 787 and 2, Laws of 1913 and 1915	251,689 24
Under article 7, section 4 of the Constitution, and chapter 147, Laws of 1903, and chap- ter 2, Laws of 1915	241,112 05
Under article 7, section 4 of the Constitution, and chapters 570 and 2, Laws of 1915	135,218 10
Under article 7, section 4 of the Constitution, and chapters 746 and 2, Laws of 1911 and 1915	238,971 15
Unexpended moneys for Barge canal construction:	
Erie, Champlain and Oswego.	1,157,088 38
Cayuga and Seneca	104,449 90
Terminals	2,364,715 54
	<hr/> 5,287,605 22
	<hr/> \$1,384,950 39
Which is subject to adjustments, for the purpose of keeping within fiscal years the appropriations derivable from the receipts of those years, as follows:	
Add advance to Superintendent of Public Works	150,000 00
	<hr/> \$1,534,950 39

Deduct as liability the total amount of those appropriations created by law previous to July 1, 1919, which are unexpended at this date...		418,467 05
		<hr/>
		\$1,116,483 34
Deduct as liability the amount received previous to July 1, 1920, on account of appropriations of 1920.....		\$1,470,293 64
Less amount expended from 1919 appropriations during the fiscal year ended June 30, 1920 ..		381,841 48
		<hr/>
		1,088,452 16
Cash surplus		\$28,031 18
		<hr/> <hr/>

CANAL DEBT SINKING FUNDS

DETAIL OF CASH TRANSACTIONS DURING THE YEAR ENDED JUNE 30, 1920

CANAL DEBT SINKING FUNDS

29

	Under article 7, section 1, of the Constitution	Under article 7, section 3, of the Constitution	Under article 7, section 4, of the Constitution and chapters 147 Laws of 1903	Under article 7, section 4, of the Constitution and chapters 147 and 302, Laws of 1903 and 1906	Under article 7, section 4, of the Constitution and chapters 147 and 302, Laws of 1903 and 1910
Cash on hand July 1, 1919.....	\$160 00	\$500 00	\$69,946 06	\$53,192 98	\$85,541 31
RECEIVED DURING THE YEAR.					
Transfer from General Fund per chapter 535, Laws of 1919.....					\$2,551,604 39
Par value of securities sold or redeemed.....				\$124,975 41	122,321 13
Interest on investments.....			\$15,904 32	625,777 27	310,444 71
Interest on deposits.....			3,236 68	8,261 14	23,518 09
Receipts during the year.....			\$94,421 81	\$759,013 82	\$3,007,898 32
EXPENDITURES DURING THE YEAR.					
Par value of securities purchased.....				\$73,000 00	\$1,446,733 26
Less discount in purchase of securities.....					
Premium on securities purchased.....				\$73,000 00	\$1,446,733 26
Accrued interest on securities purchased.....				3,197 90	.....
Interest on debt.....				902 08	8,514 86
Transfer to General Fund per chapter 407, Laws of 1920.....	\$160 00	\$500 00	\$60,000 00	630,000 00	1,600,000 00
	\$160 00	\$500 00	\$60,000 00	\$707,099 98	\$3,055,247 92
SUMMARY					
Cash on hand July 1, 1919.....	\$160 00	\$500 00	\$69,946 06	\$53,192 98	\$85,541 31
Receipts during the year.....			94,421 81	759,013 82	3,007,898 32
Expenditures during the year.....	\$160 00	\$500 00	\$164,367 87	\$812,206 80	\$3,093,429 63
Cash on hand June 30, 1920.....	160 00	500 00	60,000 00	707,099 98	3,055,247 92
			\$104,367 87	\$105,106 83	\$38,181 71

CANAL DEBET SINKING FUNDS — DETAIL OF CASH TRANSACTIONS — (Continued)

	Under article 7, section 4, of the Constitution and chapters 381 and 136, Laws of 1909 and 1910	Under article 7, section 4, of the Constitution and chapter 746, Laws of 1911	Under article 7, section 4, of the Constitution and chapters 147 and 787, Laws of 1903 and 1913	Under article 7, section 4, of the Constitution and chapters 381 and 136, Laws of 1909 and 1915	Under article 7, section 4, of the Constitution and chapter 746 and Laws of 1911 and 1915
Cash on hand July 1, 1919	\$16,130 18	\$25,248 41	\$50,666 79	\$19,742 18	\$38,616 95
RECEIVED DURING THE YEAR					
Transfer from General Fund per chapter 385, Laws of 1919	\$191,370 33	\$382,740 66	\$1,913,703 29	\$255,160 44	\$382,740 66
Par value of securities sold or redeemed	3,000 00	3,000 00	28,500 00	18,183 24	36,784 76
Interest on investments	24,016 30	43,880 00	210,761 73	7,270 73	6,036 87
Interest on deposits	3,402 68	6,491 62	27,188 27		
Receipts during the year	\$218,789 31	\$436,212 28	\$2,180,153 31	\$280,614 41	\$425,572 29
EXPENDITURES DURING THE YEAR					
Par value of securities purchased	\$40,764 08		\$800,000 00		
Less discount in purchase of securities					
Premium on securities purchased			\$800,000 00		
Accrued interest on securities purchased	88 33				
Interest on debt	120,000 00	\$200,000 00	1,350,000 00	\$170,000 00	\$212,500 00
Transfer to General Fund per chapters 407, Laws of 1920					
	\$160,852 41	\$200,000 00	\$2,150,000 00	\$170,000 00	\$212,500 00
SUMMARY					
Cash on hand July 1, 1919	\$16,130 18	\$25,248 41	\$50,666 79	\$19,742 18	\$38,616 95
Receipts during the year	218,789 31	436,212 28	2,180,153 31	280,614 41	425,572 29
Expenditures during the year	\$234,919 49	\$461,460 69	\$2,230,820 10	\$300,356 59	\$464,189 24
	160,852 41	200,000 00	2,150,000 00	170,000 00	212,500 00
Cash on hand June 30, 1920	\$74,067 08	\$261,400 69	\$80,820 10	\$130,356 59	\$251,689 24

CANAL DEBT SINKING FUNDS — DETAIL OF CASH TRANSACTIONS — (Concluded)

	Under article 7, section 4, of the Constitution and chapters 147 and 2, Laws of 1903 and 1915	Under article 7, section 4, of the Constitution and chapters 570 and 2, Laws of 1915	Under article 7, section 4, of the Constitution and chapters 746 and 2, Laws of 1911 and 1915	Total
Cash on hand July 1, 1919.....	\$24,139 38	\$403,004 87	\$80,737 27	\$867,626 38
Received During the Year				
Transfer from General Fund per chapter 535, Laws of 1919.....	\$510,320 88	\$1,722,332 96	\$229,644 39	\$8,139,618 00
Par value of securities sold or redeemed.....	5,600 00			300,300 88
Interest on investments.....	38,384 75	80,107 90	32,307 50	1,503,048 99
Interest on deposits.....	4,657 04	84,468 49	16,281 99	190,813 60
Receipts during the year.....	\$556,972 67	\$1,895,909 35	\$278,233 88	\$10,133,781 45
Expenses During the Year				
Par value of securities purchased.....		\$1,208,874 57		\$3,587,371 91
Less discount in purchase of securities.....		138,405 50		138,405 50
Premium on securities purchased.....		\$1,068,469 07		\$3,428,966 41
Accrued interest on securities purchased.....		15,227 05		3,197 90
Interest on debt.....		1,080,600 00		24,732 12
Transfer to General Fund per chapter 407, Laws of 1920.....	\$340,000 00		\$130,000 00	5,883,690 00
	\$340,000 00	\$2,163,696 12	\$120,000 00	660 00
				\$9,340,056 43
SUMMARY				
Cash on hand July 1, 1919.....	\$24,139 38	\$403,004 87	\$80,737 27	\$867,626 38
Receipts during the year.....	556,972 67	1,895,909 35	278,233 88	10,133,781 45
Expenditures during the year.....	\$581,112 05	\$2,298,914 22	\$358,971 15	\$11,001,407 83
Cash on hand June 30, 1920.....	\$241,112 05	\$135,218 10	\$238,971 15	\$9,340,056 43
				1,661,351 40

DETAIL OF INVESTMENT TRANSACTIONS ON ACCOUNT OF CANAL DEBT SINKING FUND, No. 2, UNDER ARTICLE 7,
SECTION 4, OF THE CONSTITUTION, AND CHAPTER 147 OF THE LAWS OF 1903, FOR THE YEAR ENDED JUNE 30,
1920

BONDS	Rate	Registered or coupon	Due	Par of holdings July 1, 1919	Purchased during the year	Sold or redeemed during the year	Par of holdings June 30, 1920	Interest collected during the year	Accrued interest on purchases of securities during the year
<i>Cities:</i>	<i>Per cent.</i>								
Amsterdam.....	4 $\frac{1}{2}$	R	July 1, 1934.....	\$25,000 00	.....	.....	\$25,000 00	\$1,125 00	.....
New York.....	3 $\frac{1}{2}$	R	Nov. 1, 1920.....	10,000 00	.....	.....	10,000 00	300 00	.....
New York.....	3 $\frac{1}{2}$	R	Oct. 1, 1921.....	18,000 00	.....	.....	18,000 00	630 00	.....
New York.....	3 $\frac{1}{2}$	R	Nov. 1, 1921.....	15,000 00	.....	.....	15,000 00	450 00	.....
New York.....	3 $\frac{1}{2}$	R	Nov. 1, 1922.....	35,000 00	.....	.....	35,000 00	1,235 00	.....
New York.....	3 $\frac{1}{2}$	R	Nov. 1, 1923.....	20,000 00	.....	.....	20,000 00	600 00	.....
New York.....	3 $\frac{1}{2}$	R	Jan. 1, 1925.....	200,000 00	.....	.....	200,000 00	7,000 00	.....
New York.....	3 $\frac{1}{2}$	R	Nov. 1, 1925.....	6,000 00	.....	.....	6,000 00	180 00	.....
New York.....	3 $\frac{1}{2}$	R	Nov. 1, 1928.....	165,000 00	.....	.....	165,000 00	5,775 00	.....
New York.....	3 $\frac{1}{2}$	R	Nov. 1, 1940.....	30,000 00	.....	.....	30,000 00	1,050 00	.....
New York.....	3 $\frac{1}{2}$	R	Nov. 1, 1951.....	48,000 00	.....	.....	48,000 00	1,680 00	.....
New York.....	3 $\frac{1}{2}$	R	Oct. 1, 1953.....	20,000 00	.....	.....	20,000 00	700 00	.....
New York.....	3 $\frac{1}{2}$	R	Nov. 1, 1953.....	645,000 00	.....	.....	645,000 00	22,575 00	.....
New York.....	3 $\frac{1}{2}$	R	Nov. 1, 1953.....	25,000 00	.....	.....	25,000 00	875 00	.....
New York.....	3 $\frac{1}{2}$	R	Nov. 1, 1953.....	128,000 00	.....	.....	128,000 00	4,480 00	.....
New York.....	3 $\frac{1}{2}$	R	May 1, 1954.....	136,000 00	.....	.....	136,000 00	4,760 00	.....
New York.....	3 $\frac{1}{2}$	R	Nov. 1, 1954.....	35,000 00	.....	.....	35,000 00	1,225 00	.....
New York.....	3 $\frac{1}{2}$	R	Nov. 1, 1955.....	35,000 00	.....	.....	35,000 00	1,225 00	.....
New York.....	3 $\frac{1}{2}$	R	Nov. 1, 1955.....	178,000 00	.....	.....	178,000 00	7,545 00	.....
Niagara Falls.....	4 $\frac{1}{2}$	R	Mar. 1, 1939-41.....	160,000 00	.....	.....	160,000 00	7,200 00	.....
Syracuse.....	3 $\frac{1}{2}$	R	Sept. 1, 1920-21.....	10,000 00	.....	\$5,000 00	5,000 00	350 00	.....
Syracuse.....	3 $\frac{1}{2}$	R	April 1, 1920-21.....	12,100 00	.....	.....	12,100 00	41 25	.....
Watervliet.....	3 $\frac{1}{2}$	R	Aug. 1, 1919-34.....	16,000 00	.....	1,000 00	15,000 00	542 50	.....
<i>Treas:</i>									
Essexbridge.....	3 $\frac{1}{2}$	R	Jan. 1, 1920-23.....	4,000 00	.....	1,000 00	3,000 00	140 00	.....
Wayne.....	3 $\frac{1}{2}$	R	Jan. 1, 1920.....	3,000 00	3,000 00	105 00
West Seneca.....	4	R	Jan. 1, 1920.....	1,000 00	1,000 00	40 00

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DETAIL OF INVESTMENT TRANSACTIONS ON ACCOUNT OF CANAL DEBT SINKING FUND, No. 3, UNDER ARTICLE 7,
SECTION 4, OF THE CONSTITUTION, AND CHAPTERS 147 AND 302 OF THE LAWS OF 1903 AND 1906, FOR THE YEAR
ENDED JUNE 30, 1920

BONDS	Rate	Registered or coupon	Due	Par of holdings July 1, 1919	Purchased during the year	Sold or redeemed during the year	Par of holdings June 30, 1920	Interest collected during the year	Accrued interest on purchases of securities during the year
State Comptroller's Temporary Certificate No. 3.....	4 1/2	R	..... Jan. 1, 1965.....	\$150,000 00	.....	.....	\$150,000 00	.....	.....
State of New York.....	4 1/2	R	..... Jan. 1, 1934.....	500,000 00	.....	.....	500,000 00	\$21,250 00	.....
Counties:									
Onondaga.....	4	R	..... June 1, 1939-63.....	35,000 00	.....	.....	35,000 00	1,400 00	.....
Westchester.....	4 1/2	R	.....	487,000 00	.....	.....	487,000 00	21,915 00	.....
Cities:									
Albany.....	4	R	..... Mar. 1, 1920-29.....	47,000 00	.....	\$5,500 00	41,500 00	1,880 00	.....
Buffalo.....	3 1/2	R	..... July 1, 1919.....	47,715 96	.....	47,715 96	.....	835 03	.....
Buffalo.....	3 1/2	R	..... Oct. 2, 1919.....	35,453 35	.....	35,453 35	.....	620 46	.....
Buffalo.....	3 1/2	R	..... April 1, 1921.....	111,544 18	.....	.....	111,544 18	3,904 04	.....
Buffalo.....	4	R	..... Oct. 1, 1919-28.....	39,691 00	.....	3,969 10	35,721 90	1,508 26	.....
Buffalo.....	4	R	..... Oct. 10, 1928-58.....	350,000 00	.....	.....	350,000 00	14,000 00	.....
Buffalo.....	4 1/2	R	..... June 15, 1939.....	79,500 00	.....	.....	79,500 00	3,577 50	.....
Buffalo.....	4 1/2	R	..... Oct. 1, 1918-33*.....	25,000 00	.....	.....	25,000 00	750 00	.....
New York.....	3	R	..... Oct. 1, 1920.....	6,000 00	.....	.....	6,000 00	210 00	.....
New York.....	3 1/2	R	..... Nov. 1, 1920.....	4,000 00	.....	.....	4,000 00	140 00	.....
New York.....	3 1/2	R	..... Jan. 1, 1925.....	1,000 00	.....	.....	1,000 00	35 00	.....
New York.....	3 1/2	R	..... Jan. 1, 1926.....	12,000 00	.....	.....	12,000 00	420 00	.....
New York.....	3 1/2	R	..... Nov. 1, 1927.....	12,000 00	.....	.....	12,000 00	420 00	.....
New York.....	3 1/2	R	..... Nov. 1, 1928.....	810,600 00	.....	.....	810,600 00	28,371 03	.....
New York.....	3 1/2	R	..... Nov. 1, 1929.....	2,211,000 00	.....	.....	2,211,000 00	77,385 00	.....
New York.....	3 1/2	R	..... Jan. 1, 1935.....	58,000 00	.....	.....	58,000 00	2,030 00	.....
New York.....	3 1/2	R	..... Nov. 1, 1936.....	5,000 00	.....	.....	5,000 00	600 00	.....
New York.....	3 1/2	R	..... Jan. 1, 1937.....	5,000 00	.....	.....	5,000 00	175 00	.....
New York.....	3 1/2	R	..... Nov. 1, 1940.....	709,000 00	.....	.....	709,000 00	24,815 00	.....
New York.....	3 1/2	R	..... Nov. 1, 1941.....	252,000 00	.....	.....	252,000 00	8,820 00	.....
New York.....	3 1/2	R	..... Nov. 1, 1942.....	26,000 00	.....	.....	26,000 00	910 00	.....
New York.....	3 1/2	R	..... Nov. 1, 1950.....	53,000 00	.....	.....	53,000 00	1,590 00	.....
New York.....	3 1/2	R	..... Nov. 1, 1950.....	7,000 00	.....	.....	7,000 00	245 00	.....
New York.....	3 1/2	R	..... Oct. 1, 1952.....	672,000 00	.....	.....	672,000 00	23,520 00	.....

New York	3 1/2	R	Nov. 1, 1952	1,343,000 00	.....	1,343,000 00	47,005 00	.....
New York	3 1/2	R	Nov. 1, 1953	317,000 00	.....	317,000 00	11,093 00	.....
New York	3 1/2	R	April 1, 1954	455,000 00	.....	455,000 00	1,825 00	.....
New York	3 1/2	R	May 1, 1954	424,000 00	.....	424,000 00	14,840 00	.....
New York	3 1/2	R	Nov. 1, 1954	369,000 00	.....	369,000 00	12,883 00	.....
New York	3 1/2	R	Nov. 1, 1955	107,000 00	.....	107,000 00	3,745 00	.....
New York	4	R	Nov. 1, 1955	914,000 00	.....	914,000 00	37,560 00	.....
New York	4	R	Nov. 1, 1956	181,000 00	.....	181,000 00	7,240 00	.....
New York	4	R	May 1, 1957	128,000 00	.....	128,000 00	5,120 00	.....
New York	4 1/2	R	May 1, 1957	854,000 00	.....	854,000 00	38,230 00	.....
New York	4 1/2	R	Nov. 1, 1957	859,000 00	.....	859,000 00	38,655 00	.....
New York	4	R	Nov. 1, 1958	3,075,000 00	.....	3,075,000 00	123,000 00	.....
New York	4	R	May 1, 1959	1,253,000 00	.....	1,253,000 00	50,120 00	.....
Spencer	4	R	Sept. 1, 1918-38*	100,000 00	.....	100,000 00	4,000 00	.....
Spencer	4	R	July 15, 1918-28	170,000 00	.....	170,000 00	7,245 00	.....
Spencer	4 1/2	R	July 15, 1918-28	25,000 00	.....	25,000 00	1,068 75	.....
Utica	4 1/2	R	May 1, 1936	100,000 00	.....	100,000 00	4,000 00	.....
Watertown	4 1/2	R	May 1, 1936	62,500 00	.....	62,500 00	2,671 83	.....
Watertown	4 1/2	R	Sept. 1, 1919-28	.....	.....	.....	.....	.....
Tenants	4	R	Nov. 1, 1919-39	31,000 00	.....	31,000 00	1,220 00	.....
Boonville	4	R	Nov. 1, 1919-39	.....	.....	.....	.....	.....
Dickinson and Fenton	5	R	Dec. 31, 1930-35	10,000 00	.....	10,000 00	640 00	.....
Pomfret	4	R	Jan. 1, 1920-35	.....	.....	.....	.....	.....
Union	5	R	Dec. 1, 1933-37	.....	.....	.....	.....	.....
Villages	4 1/2	C	July 1, 1919-27	27,000 00	.....	27,000 00	1,083 75	.....
Briarcliff Manor	4 1/2	R	Aug. 1, 1935-44	50,000 00	.....	50,000 00	2,240 00	.....
Goshen	4 1/2	R	June 15, 1920-43	10,880 00	.....	10,880 00	494 10	.....
Mount Kisco	4 15-100	R	Oct. 1, 1938	35,000 00	.....	35,000 00	1,452 50	.....
Peekskill	4 1/2	R	July 1, 1938-44	19,000 00	.....	19,000 00	902 50	.....
Tuckahoe	4 1/2	R	April 1, 1944	5,500 00	.....	5,500 00	275 00	.....
Tuckahoe	5	R	May 1, 1941-43	2,300 00	.....	2,300 00	115 00	.....
Tuckahoe	5	R	May 1, 1926-40	12,350 00	.....	12,350 00	617 50	.....
Total	.....	.....	.....	\$16,546,136 46	\$73,000 00	\$124,975 41	\$425,777 27	\$902 08

* Optional.

DETAIL OF INVESTMENT TRANSACTIONS ON ACCOUNT OF CANAL DEBT SINKING FUND, No. 4, UNDER ARTICLE 7,
SECTION 4, OF THE CONSTITUTION, AND CHAPTERS 147 AND 66 OF THE LAWS OF 1903 AND 1910, FOR THE YEAR
ENDED JUNE 30, 1920

BONDS	Rate	Registered or coupon	Due	Par of holdings July 1, 1919	Purchased during the year	Sold or redeemed during the year	Par of holdings June 30, 1920	Interest collected during the year	Accrued interest on purchases of securities during the year
<i>United States of America:</i>	<i>Per cent</i>								
First Liberty Loan.....	4 1/2	R	June 15, 1947.....	\$50,000 00	.....	.....	\$50,000 00	\$2,125 00	.....
Second Liberty Loan.....	4 1/2	R	Nov. 15, 1942.....	250,000 00	.....	.....	250,000 00	10,625 00	.....
Third Liberty Loan.....	4 1/2	R	Sept. 15, 1928.....	130,000 00	.....	.....	130,000 00	5,525 00	.....
Fourth Liberty Loan.....	4 1/2	R	Oct. 15, 1938.....	505,000 00	.....	.....	505,000 00	21,462 50	.....
State of New York.....	4	R	Sept. 1, 1958.....	2,000 00	.....	.....	2,000 00	80 00	.....
State of New York.....	4	R	July 1, 1941.....	5,000 00	.....	.....	5,000 00	200 00	.....
State of New York.....	4	R	Jan. 1, 1942.....	205,000 00	.....	.....	205,000 00	11,800 00	.....
State of New York.....	4	R	Mar. 1, 1942.....	1,000 00	.....	.....	1,000 00	40 00	.....
State of New York.....	4	R	Jan. 1, 1947.....	100,000 00	.....	.....	100,000 00	4,000 00	.....
Judgments of the Court of Claims.....	6	.....	(See Note A).....	29,277 11	\$246,733 26	\$117,321 13	158,689 24	2,476 46	\$8,514 66
Comptroller's Temporary Certificates:									
No. 6.....	4 1/2	R	.....	.....	200,000 00	.....	200,000 00	.....	.....
No. 7.....	4 1/2	R	.....	.....	200,000 00	.....	200,000 00	.....	.....
No. 8.....	4 1/2	R	.....	.....	200,000 00	.....	200,000 00	.....	.....
No. 9.....	4 1/2	R	.....	.....	200,000 00	.....	200,000 00	.....	.....
No. 10.....	4 1/2	R	.....	.....	200,000 00	.....	200,000 00	.....	.....
No. 11.....	4 1/2	R	.....	.....	200,000 00	.....	200,000 00	.....	.....
County of Hamilton.....	3 1/2	R	April 1, 1937-39.....	21,000 00	.....	.....	21,000 00	735 00	.....
City of New York.....	3 1/2	R	Nov. 1, 1926.....	50,000 00	.....	.....	50,000 00	1,750 00	.....
New York.....	3 1/2	R	Nov. 1, 1926.....	350,000 00	.....	.....	350,000 00	12,250 00	.....
New York.....	3 1/2	R	Nov. 1, 1940.....	300,000 00	.....	.....	300,000 00	10,500 00	.....
New York.....	3 1/2	R	Nov. 1, 1940.....	105,000 00	.....	.....	105,000 00	3,675 00	.....
New York.....	3 1/2	R	Nov. 1, 1940.....	960,500 00	.....	.....	960,500 00	38,617 50	.....
New York.....	3 1/2	R	Nov. 1, 1941.....	49,000 00	.....	.....	49,000 00	1,600 00	.....
New York.....	3 1/2	R	Nov. 1, 1942.....	25,000 00	.....	.....	25,000 00	850 00	.....
New York.....	3 1/2	R	Oct. 1, 1943.....	260,000 00	.....	.....	260,000 00	9,800 00	.....
New York.....	3 1/2	R	April 1, 1954.....	53,000 00	.....	.....	53,000 00	1,855 00	.....

New York.....	34	R	May 1, 1954.....	937,700 00	.....	937,700 00	33,899 50	.....
New York.....	34	R	Nov. 1, 1954.....	1,008,200 00	.....	1,008,200 00	35,287 00	.....
New York.....	34	R	Nov. 1, 1955.....	184,800 00	.....	184,800 00	5,418 00	.....
New York.....	4	R	May 1, 1956.....	500,000 00	.....	500,000 00	20,000 00	.....
New York.....	44	R	Sept. 1, 1956.....	1,000,000 00	.....	1,000,000 00	42,500 00	.....
New York.....	44	R	Mar. 1, 1957.....	740,000 00	.....	740,000 00	31,450 00	.....
New York.....	44	R	July 1, 1957.....	100,000 00	.....	100,000 00	4,500 00	.....
Little Falls.....	34	R	July 1, 1919-35.....	33,000 00	.....	31,000 00	1,155 00	.....
Village of Brockport.....	34	R	Aug. 1, 1919-31.....	38,000 00	.....	36,000 00	1,368 75	.....
Total.....	3 55	.....	.....	38,097,477 11	\$1,440,733 26	\$9,421,899 24	\$310,444 71	\$9,514 86

A. When Legislature makes appropriation.

DETAIL OF INVESTMENT TRANSACTIONS ON ACCOUNT OF CANAL DEBT SINKING FUND, No. 5, UNDER ARTICLE 7,
SECTION 4, OF THE CONSTITUTION, AND CHAPTERS 391 AND 139 OF THE LAWS OF 1909 AND 1910, FOR THE YEAR
ENDED JUNE 30, 1920

BONDS	Rate	Registered or coupon	Due	Par of holdings July 1, 1919	Purchased during the year	Sold or redeemed during the year	Par of holdings June 30, 1920	Interest collected during the year	Accrued interest on purchases of securities during the year
State of New York, Judgments of the Court of Claims.....	6	R	Jan. 1, 1932.....	\$11,000 00	\$40,764 08	.....	\$40,764 08	.....	\$88 33
State of New York.....	4	R	Nov. 1, 1940.....	2,000 00	.....	.....	11,000 00	\$440 00	.....
City of New York.....	3	R	Nov. 1, 1941.....	3,000 00	.....	.....	2,000 00	70 00	.....
City of New York.....	3	R	Nov. 1, 1941.....	3,000 00	.....	.....	3,000 00	103 00	.....
City of New York.....	3	R	Nov. 1, 1942.....	36,000 00	.....	.....	36,000 00	1,280 00	.....
City of New York.....	3	R	Oct. 1, 1932.....	137,000 00	.....	.....	137,000 00	4,795 00	.....
City of New York.....	3	R	Oct. 1, 1933.....	50,000 00	.....	.....	50,000 00	1,750 00	.....
City of New York.....	3	R	Nov. 1, 1933.....	104,500 00	.....	.....	104,500 00	3,657 50	.....
City of New York.....	3	R	April 1, 1934.....	10,000 00	.....	.....	10,000 00	350 00	.....
City of New York.....	3	R	May 1, 1934.....	67,000 00	.....	.....	67,000 00	2,345 00	.....
City of New York.....	3	R	Nov. 1, 1935.....	10,000 00	.....	.....	10,000 00	400 00	.....
City of New York.....	4	R	Nov. 1, 1935.....	3,000 00	.....	.....	3,000 00	120 00	.....
City of New York.....	4	R	Nov. 1, 1937.....	7,000 00	.....	.....	7,000 00	280 00	.....
City of New York.....	4	R	Nov. 1, 1938.....	6,000 00	.....	.....	5,000 00	200 00	.....
City of New York.....	4	R	Mar. 1, 1921.....	80,000 00	.....	.....	80,000 00	3,400 00	.....
City of New York.....	4	R	Feb. 1, 1921.....	25,733 55	.....	.....	25,733 55	1,232 34	.....
City of Jamestown.....	4	R	Dec. 1, 1932-51.....	42,000 00	.....	.....	42,000 00	1,995 00	.....
Town of Greece.....	5	R	Nov. 1, 1922-44.....	23,539 00	.....	.....	23,539 00	1,176 46	.....
Village of Kenmore.....	5	R	Nov. 1, 1922-39.....	9,000 00	.....	.....	9,000 00	450 00	.....
Total.....	.....	.....	.....	\$625,782 55	\$40,764 08	.....	\$666,528 63	\$24,016 30	\$88 33

DETAIL OF INVESTMENT TRANSACTIONS ON ACCOUNT OF CANAL DEBT SINKING FUND, No. 6, UNDER ARTICLE 7,
SECTION 4, OF THE CONSTITUTION, AND CHAPTER 746 OF THE LAWS OF 1911, FOR THE YEAR ENDED JUNE 30,
1920

BONDS	Rate	Registered or coupon	Due	Par of holdings July 1, 1919	Purchased during the year	Sold or redeemed during the year	Par of holdings June 30, 1920	Interest collected during the year	Accrued interest on purchases of securities during the year
State of New York.....	4	R	Jan. 1, 1962....	\$25,000 00	.....	.....	\$25,000 00	\$1,000 00	.....
Cities:									
Fulton.....	4½	R	Oct. 1, 1928-40..	12,000 00	.....	.....	12,000 00	540 00	.....
New York.....	3½	R	Nov. 1, 1949....	130,000 00	.....	.....	130,000 00	4,550 00	.....
New York.....	3½	R	Nov. 1, 1950....	36,000 00	.....	.....	36,000 00	1,260 00	.....
New York.....	3½	R	Nov. 1, 1951....	367,000 00	.....	.....	367,000 00	12,845 00	.....
New York.....	3½	R	Nov. 1, 1952....	120,000 00	.....	.....	120,000 00	4,200 00	.....
New York.....	3½	R	Nov. 1, 1954....	50,000 00	.....	.....	50,000 00	1,750 00	.....
New York.....	4	R	May 1, 1959....	39,500 00	.....	.....	39,500 00	1,580 00	.....
New York.....	4½	R	Mar. 1, 1962....	200,000 00	.....	.....	200,000 00	8,500 00	.....
Towns:									
Milton.....	3½	R	Jan. 1, 1928-30..	4,000 00	.....	.....	4,000 00	140 00	.....
Scarsdale.....	5	C	May 1, 1929-49..	105,000 00	.....	.....	105,000 00	5,250 00	.....
Villages:									
Carthage.....	5	R	Sept. 1, 1919-26..	8,000 00	.....	1,000 00	7,000 00	375 00	.....
Northport.....	4½	R	Aug. 1, 1927-37..	22,000 00	.....	.....	22,000 00	1,045 00	.....
Saratoga Springs.....	4½	R	June 1, 1920-40..	21,000 00	.....	\$2,000 00	19,000 00	945 00	.....
Total.....	.....	.....	.....	\$1,139,500 00	.....	\$3,000 00	\$1,136,500 00	\$43,980 00	.....

DETAIL OF INVESTMENT TRANSACTIONS ON ACCOUNT OF CANAL DEBT SINKING FUND, No. 7, UNDER ARTICLE 7,
SECTION 4, OF THE CONSTITUTION, AND CHAPTERS 147 AND 787 OF THE LAWS OF 1903 AND 1913, FOR THE YEAR
ENDED JUNE 30, 1920

BONDS	Rate	Registered or	Due	Par of holdings July 1, 1919	Purchased during the year	Sold or redeemed during the year	Par of holdings June 30, 1920	Interest collected during the year	Accrued interest on purchases of securities during the year
United States of America, Victory Liberty Loan, 4 1/2%	Percent 4 1/2	R	May 20, 1923	\$140,000 00			\$140,000 00	\$7,125 00	
State of New York, Comptroller's Temporary Certificates:		R	Jan. 1, 1962	205,000 00			205,000 00	8,200 00	
No. 1.	4 1/2	R		200,000 00			200,000 00		
No. 2.	4 1/2	R		200,000 00			200,000 00		
No. 3.	4 1/2	R		50,000 00			50,000 00		
No. 4.	4 1/2	R			\$400,000 00		400,000 00		
No. 5.	4 1/2	R			200,000 00		200,000 00		
No. 12.	4 1/2	R			200,000 00		200,000 00		
Cities:									
New York.	3 1/2	R	Nov. 1, 1940	270,000 00			270,000 00	9,450 00	
New York.	3 1/2	R	Nov. 1, 1941	101,000 00			101,000 00	3,535 00	
New York.	3 1/2	R	Nov. 1, 1942	171,000 00			171,000 00	5,985 00	
New York.	3	R	Nov. 1, 1950	119,000 00			119,000 00	3,570 00	
New York.	3 1/2	R	Nov. 1, 1951	75,000 00			75,000 00	2,625 00	
New York.	3 1/2	R	Nov. 1, 1952	664,000 00			664,000 00	23,240 00	
New York.	3 1/2	R	Nov. 1, 1953	3,000 00			3,000 00	105 00	
New York.	3 1/2	R	Nov. 1, 1954	20,000 00			20,000 00	700 00	
New York.	3 1/2	R	May 1, 1954	1,887,300 00			1,887,300 00	66,055 50	
New York.	3 1/2	R	Nov. 1, 1955	8,000 00			8,000 00	280 00	
New York.	4	R	Nov. 1, 1955	100,000 00			100,000 00	4,000 00	
New York.	4	R	Nov. 1, 1956	3,000 00			3,000 00	120 00	
New York.	4	R	Nov. 1, 1957	19,000 00			19,000 00	760 00	
New York.	4	R	Nov. 1, 1958	33,000 00			33,000 00	1,320 00	
New York.	4	C & R	May 1, 1959	428,000 00			428,000 00	1,704 00	
New York.	4 1/2	R	Sept. 1, 1960	600,000 00			600,000 00	25,500 00	
New York.	4 1/2	R	Mar. 1, 1962	150,000 00			150,000 00	6,375 00	
Poughkeepsie.	4 1/2	R	July 1, 1934	230,000 00			230,000 00	10,350 00	
Schenectady.	4 1/2	R	June 1, 1920-34	89,000 00			89,000 00	3,782 50	
Schenectady Villages.	4 1/2	R	July 1, 1919-32	135,000 00			120,000 00	5,418 75	
Ravena.	5	R	Oct. 1, 1919-37	104,500 00			99,000 00	5,225 00	
Total.				\$6,002,800 00	\$890,000 00	\$28,500 00	\$6,774,300 00	\$210,761 75	

DETAIL OF INVESTMENT TRANSACTIONS ON ACCOUNT OF CANAL DEBT SINKING FUND, NO. 8, UNDER ARTICLE 7,
SECTION 4, OF THE CONSTITUTION, AND CHAPTERS 391 AND 787 OF THE LAWS OF 1909 AND 1913, FOR THE YEAR
ENDED JUNE 30, 1920

BONDS	Rate	Registered or coupon	Due	Par of holdings July 1, 1919	Purchased during the year	Sold or redeemed during the year	Par of holdings June 30, 1920	Interest collected during the year	Accrued interest on purchases of securities during the year
	Per cent								
State of New York.....	4	R	Jan. 1, 1961.....	\$7,000 00	.....	.....	\$7,000 00	\$280 00	.....
State of New York.....	4	R	Mar. 1, 1961.....	62,000 00	.....	.....	62,000 00	2,480 00	.....
State of New York.....	4	R	July 1, 1961.....	4,000 00	.....	.....	4,000 00	1,160 00	.....
State of New York.....	4	R	Mar. 1, 1967.....	35,000 00	.....	.....	35,000 00	1,400 00	.....
City of New York.....	3½	R	Nov. 1, 1953.....	125,750 00	.....	.....	125,750 00	4,401 24	.....
New York.....	3½	R	Nov. 1, 1955.....	80,000 00	.....	.....	80,000 00	2,800 00	.....
New York.....	4½	R	Nov. 1, 1962.....	136,000 00	.....	.....	136,000 00	5,780 00	.....
Village of.....					.....	.....			.....
Blissell.....	4.9	R	May 20, 1923-40.	18,000 00	.....	.....	18,000 00	832 00	.....
Total.....	.....	.....	.....	\$467,750 00	.....	.....	\$467,750 00	\$18,183 24	.....

COMPTROLLER'S REPORT ON CANALS

DETAIL OF INVESTMENT TRANSACTIONS ON ACCOUNT OF CANAL DEBT SINKING FUND, No. 9, UNDER ARTICLE 7,
SECTION 4, OF THE CONSTITUTION, AND CHAPTERS 746 AND 787 OF THE LAWS OF 1911 AND 1913, FOR THE YEAR
ENDED JUNE 30, 1920

BONDS	Rate	Registered or coupon	Due	Par of holdings July 1, 1919	Purchased during the year	Sold or redeemed during the year	Par of holdings June 30, 1920	Interest collected during the year	Accrued interest on purchases of securities during the year
	Per cent								
State of New York.....	4	R	Jan. 1, 1932....	\$10,000 00	.....	.....	\$10,000 00	\$400 00	.....
Cities:									
New York.....	3½	R	Nov. 1, 1940....	2,000 00	.....	.....	2,000 00	70 00	.....
New York.....	3½	R	Nov. 1, 1941....	5,000 00	.....	.....	5,000 00	175 00	.....
New York.....	3½	R	Nov. 1, 1932....	393,850 00	.....	.....	393,850 00	13,784 78	.....
New York.....	3½	R	Nov. 1, 1934....	104,000 00	.....	.....	104,000 00	3,640 00	.....
New York.....	4½	R	Mar. 1, 1932....	430,000 00	.....	.....	430,000 00	17,850 00	.....
Texas:									
Huntington.....	5	R	Jan. 2, 1925-42..	17,500 00	.....	.....	17,500 00	875 00	.....
Total.....	.....	.....	.....	\$932,350 00	.....	.....	\$932,350 00	\$36,794 78	.....

DETAIL OF INVESTMENT TRANSACTIONS ON ACCOUNT OF CANAL DEBT SINKING FUND, No. 10, UNDER ARTICLE 7,
SECTION 4, OF THE CONSTITUTION, AND CHAPTERS 147 AND 2 OF THE LAWS OF 1903 AND 1915, FOR THE YEAR
ENDED JUNE 30, 1920

BONDS	Rate	Registered or uncouped	Due	Par of holdings July 1, 1919	Purchased during the year	Sold or redeemed during the year	Par of holdings June 30, 1920	Interest collected during the year	Accrued interest on purchases of securities during the year
	Per cent								
State of New York.....	4	R	Jan. 1, 1902.....	\$17,000 00	.....	.....	\$17,000 00	\$690 00	.....
County of St. Lawrence.....	4 1/2	R	Jan. 1, 1941-44.....	56,308 00	.....	.....	56,308 00	2,393 10	.....
Cities:									
New York.....	3 1/2	R	Nov. 1, 1953.....	141,000 00	.....	.....	141,000 00	4,935 00	.....
New York.....	3 1/2	R	May 1, 1954.....	70,000 00	.....	.....	70,000 00	2,450 00	.....
New York.....	4 1/2	R	Mar. 1, 1902.....	180,000 00	.....	.....	180,000 00	7,650 00	.....
Cohoes.....	4 1/2	R	Dec. 15, 1919-36.....	27,000 00	.....	\$1,500 00	25,500 00	1,181 25	.....
North Tonawanda.....	4 1/2	R	Aug. 1, 1937-41.....	25,000 00	.....	.....	25,000 00	1,125 00	.....
Troy.....	4 1/2	R	Feb. 15, 1940-56.....	25,200 00	.....	.....	25,200 00	1,197 00	.....
Towns:									
Rye.....	5	R	Oct. 1, 1920-35.....	17,900 00	.....	1,000 00	16,900 00	870 00	.....
Meriah.....	5	R	Oct. 1, 1921-45.....	50,000 00	.....	.....	50,000 00	2,500 00	.....
North Hempstead.....	4 1/2	R	July 1, 1921-36.....	16,000 00	.....	.....	16,000 00	760 00	.....
North Hempstead.....	4 1/2	R	Oct. 1, 1926-45.....	40,000 00	.....	.....	40,000 00	1,640 00	.....
Brookhaven.....	4 1/2	R	Jan. 1, 1924-50.....	50,000 00	.....	.....	50,000 00	2,250 00	.....
Union.....	4 1/2	R	Dec. 1, 1926-40.....	29,000 00	.....	.....	29,000 00	1,203 50	.....
Villages:									
Bolivar.....	4 1/2	R	Jan. 1, 1920-31.....	13,200 00	.....	1,100 00	12,100 00	587 40	.....
New Paltz.....	4 1/2	R	May 5, 1920-43.....	47,500 00	.....	2,000 00	45,500 00	2,137 50	.....
Mount Morris.....	4 1/2	R	Sept. 1, 1921-40.....	20,000 00	.....	.....	20,000 00	810 00	.....
Long Beach.....	4 1/2	R	Sept. 1, 1921-45.....	45,000 00	.....	.....	45,000 00	2,025 00	.....
Total.....			.....	\$870,108 00	.....	\$5,800 00	\$964,508 00	\$36,394 75	.....

DETAIL OF INVESTMENT TRANSACTIONS ON ACCOUNT OF CANAL DEBT SINKING FUND, No. 11, UNDER ARTICLE 7,
SECTION 4, OF THE CONSTITUTION, AND CHAPTERS 2 AND 570 OF THE LAWS OF 1915, FOR THE YEAR ENDED
JUNE 30, 1920

BONDS	Rate	Registered or	Due	Par of holdings July 1, 1919	Purchased during the year	Sold or redeemed during the year	Par of holdings June 30, 1920	Interest collected during the year	Accrued interest on purchases of securities during the year
	Per cent								
State of New York, Judgment of the Court of Claims.....	6	....	.....	.....	\$296,874 57	.....	\$296,874 57	.....	\$14,269 18
Cities:									
New York.....	3 1/2	R	Nov. 1, 1940.....	.....	375,000 00	.....	375,000 00	.....	401 02
New York.....	3 1/2	R	Nov. 1, 1940.....	\$100,000 00	.....	.....	100,000 00	\$3,500 00	.....
New York.....	3 1/2	R	Nov. 1, 1940.....	50,000 00	.....	.....	50,000 00	1,750 00	.....
New York.....	3 1/2	R	Nov. 1, 1950.....	.....	100,000 00	.....	100,000 00	.....	91 66
New York.....	3 1/2	R	Nov. 1, 1952.....	23,000 00	435,000 00	.....	458,000 00	805 00	465 19
New York.....	3 1/2	R	Nov. 1, 1953.....	37,000 00	.....	.....	37,000 00	1,295 00	.....
New York.....	3 1/2	R	May 1, 1954.....	70,000 00	.....	.....	70,000 00	2,450 00	.....
New York.....	4 1/2	R	May 1, 1960.....	600,000 00	.....	.....	600,000 00	25,500 00	.....
New York.....	4 1/2	R	Sept. 1, 1962.....	1,081,000 00	.....	.....	1,081,000 00	45,942 50	.....
New York.....	5	R	June 1, 1938.....	40,000 00	.....	.....	40,000 00	2,100 00	.....
Mount Vernon.....	4 1/2	R	July 1, 1945.....	42,500 00	.....	.....	42,500 00	1,912 50	.....
Watertown.....	4 1/2	R	.....	.....	.....	.....	.....	.....	.....
Towns:									
Moriah.....	5	R	Dec. 1, 1922-41.....	20,000 00	.....	.....	20,000 00	1,000 00	.....
Villages:									
Sloat.....	4 1/2	R	Oct. 1, 1938-46.....	52,700 00	.....	.....	52,700 00	2,478 90	.....
Sloat.....	4 1/2	R	Oct. 1, 1927-29.....	8,000 00	.....	.....	8,000 00	376 00	.....
Total.....	.....	....	.....	\$2,124,200 00	\$1,206,874 57	.....	\$3,331,074 57	\$89,107 90	\$15,227 05

DETAIL OF INVESTMENT TRANSACTIONS ON ACCOUNT OF CANAL DEBT SINKING FUND, No. 12, UNDER ARTICLE 7,
SECTION 4, OF THE CONSTITUTION, AND CHAPTER 746 OF THE LAWS OF 1911 AND CHAPTER 2 OF THE LAWS OF
1915, FOR THE YEAR ENDED JUNE 30, 1920

BONDS	Rate	Registered or coupon	Due	Par of holdings July 1, 1919	Purchased during the year	Sold or redeemed during the year	Par of holdings June 30, 1920	Interest collected during the year	Accrued interest on purchases of securities during the year
	Per cent								
State of New York.....	4	R	Sept. 1, 1938	\$4,000 00	.....	.....	\$4,000 00	\$160 00	.....
State of New York.....	4	R	July 1, 1960	1,000 00	.....	.....	1,000 00	40 00	.....
State of New York.....	4	R	July 1, 1960	1,000 00	.....	.....	1,000 00	40 00	.....
State of New York.....	4	R	July 1, 1961	1,000 00	.....	.....	1,000 00	40 00	.....
State of New York.....	4	R	July 1, 1961	5,000 00	.....	.....	5,000 00	200 00	.....
State of New York.....	4	R	Jan. 1, 1962	438,000 00	.....	.....	438,000 00	17,520 00	.....
State of New York.....	4½	R	Mar. 1, 1965	46,000 00	.....	.....	46,000 00	1,955 00	.....
State of New York.....	4	R	Mar. 1, 1967	6,000 00	.....	.....	6,000 00	240 00	.....
State of New York.....	4½	R	Mar. 1, 1962	285,000 00	.....	.....	285,000 00	12,112 50	.....
Total.....	.....	.....	.....	\$787,000 00	.....	.....	\$787,000 00	\$32,307 50	.....

**SUMMARY OF INVESTMENTS ON ACCOUNT OF CANAL DEBT SINKING FUNDS UNDER ARTICLE 7, SECTION 4, OF THE
CONSTITUTION, SHOWING PAR OF HOLDINGS JUNE 30, 1920**

CANAL DEBT SINKING FUNDS	Par of holdings July 1, 1919	Purchased during the year	Sold or redeemed during the year	Par of holdings June 30, 1920	Interest collected during the year	Accrued interest on purchases of securities during the year
No. 2.....	\$2,098,932 43	.....	\$15,904 32	\$2,011,028 11	\$75,280 81	.....
No. 3.....	16,546,135 49	\$73,000 00	124,975 41	16,494,161 08	625,777 27	\$902 08
No. 4.....	8,087,477 11	1,446,733 26	122,321 13	9,421,889 24	310,444 71	8,514 66
No. 5.....	625,622 85	40,764 08	.....	666,326 63	24,016 30	88 33
No. 6.....	1,139,500 00	.....	3,000 00	1,136,500 00	43,980 00	.....
No. 7.....	6,002,500 00	800,000 00	28,500 00	6,774,500 00	210,761 75	.....
No. 8.....	467,750 00	.....	.....	467,750 00	18,183 24	.....
No. 9.....	952,350 00	.....	.....	952,350 00	36,794 76	.....
No. 10.....	870,108 00	.....	5,600 00	864,508 00	36,394 75	.....
No. 11.....	2,124,200 00	1,206,874 57	.....	3,331,074 57	89,107 90	15,227 05
No. 12.....	787,000 00	.....	.....	787,000 00	32,307 50	.....
Grand total.....	\$38,640,016 88	\$3,567,371 91	\$300,300 86	\$42,907,087 83	\$1,503,048 99	\$24,732 12

**DETAIL OF INVESTMENT TRANSACTIONS ON ACCOUNT OF FUND FOR CONSTRUCTION OF ERIE, CHAMPLAIN AND
OSWEGO CANALS FOR THE YEAR ENDED JUNE 30, 1920**

CANAL DEBT SINKING FUND	Par of holdings July 1, 1919	Purchased during the year	Sold or redeemed during the year	Par of holdings June 30, 1920	Interest collected during the year	Accrued interest on purchases of securities during the year
J. R. Shanley Estate, collateral trust registered bonds 5%.....	\$460,600 00	.....	.....	\$460,600 00	\$23,480 00	.....

SUMMARY OF INVESTMENTS ON ACCOUNT OF CANAL DEBT SINKING FUNDS UNDER ARTICLE 7, SECTION 4, OF THE

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CANAL CONSTRUCTION FUNDS

Transactions During the Fiscal Year Ended June 30, 1920

CANAL CONSTRUCTION FUNDS

47

	Construction of Erie, Champlain, and Oswego canals, chapters 147 and 570, Laws of 1903 and 1915 and amendments	Construction of Cayuga and Seneca barge canal, chapter 391 and 28, Laws of 1909 and 1918 and amendments	Construction of large canal terminals, chapter 746, Laws of 1911 and amendments	Total
Cash in bank June 30, 1919.....	\$3,742,928 37	\$124,725 71	\$298,747 92	\$4,166,400 00
Cash in hands of division engineers, unexpended, June 30, 1919.....	30,828 36	3,363 43	19,362 72	62,552 51
Balance in funds June 30, 1919.....	\$3,782,752 73	\$128,119 14	\$318,110 64	\$4,228,982 51
<i>Received During Year.</i>				
Appropriations.....	.....	\$5,000 00	\$2,125,000 00	\$2,130,000 00
Temporary loans.....	.....	.....	2,000,000 00	2,000,000 00
Miscellaneous receipts.....	\$271,570 46	5,799 12	40,422 40	317,791 98
.....	\$271,570 46	\$10,799 12	\$4,165,422 40	\$4,447,791 98
<i>Vouchers Rendered During Year.</i>				
On account of construction of:				
Erie canal.....	\$2,628,183 00	.....	.....	\$2,628,183 00
Champlain canal.....	112,161 16	.....	.....	112,161 16
Oswego canal.....	121,050 66	.....	.....	121,050 66
Cayuga and Seneca canal.....	.....	\$33,676 24	.....	\$33,676 24
Barge canal terminals.....	.....	.....	\$2,105,470 16	2,105,470 16
Overdraft charged to Erie, Champlain and Oswego canals.....	7,304 77	.....	.....	7,304 77
.....	\$2,868,699 50	\$33,676 24	\$2,105,470 16	\$5,007,845 90
Cash in bank June 30, 1920.....	\$1,157,088 35	\$104,449 90	\$2,364,715 54	\$3,626,253 82
Cash in hands of division engineers, June 30, 1920.....	28,535 22	792 12	13,347 34	42,674 68
Balance in funds June 30, 1920.....	\$1,185,623 60	\$105,242 02	\$2,378,062 88	\$3,668,928 50

**STATEMENT SHOWING BALANCES UNEXPENDED JULY 1, 1919, VOUCHERS RENDERED AND REFUNDS MADE
DURING THE YEAR AND BALANCES UNEXPENDED JUNE 30, 1920**

FOR WHAT PURPOSE	Balance July 1, 1919	Vouchers re- ndered during the year	Refunds during the year	Balance June 30, 1920
SUPERINTENDENT OF PUBLIC WORKS				
Maintenance and repairs.....	\$150,000 00	\$2,597,098 90	.....	\$150,000 00
Construction of Erie, Champlain and Oswego canals.....	.....	1,728,184 41	.....	.....
Construction of Cayuga and Seneca barge canal.....	.....	16,880 98	.....	.....
Construction of barge canal terminals.....	.....	1,443,029 96	.....	.....
DIVISION ENGINEERS				
Maintenance and repairs.....	6,237 20	203,264 65	\$3,560 57	\$7,304 77
Construction of Erie, Champlain and Oswego canals.....	39,826 36	353,456 37	.....	35,839 00
Construction of Cayuga and Seneca barge canal.....	3,893 43	2,601 31	.....	792 12
Construction of barge canal terminals.....	19,362 72	183,068 07	.....	13,347 34
COMPTROLLER'S OFFICE — BUREAU OF CANAL AFFAIRS				
Salaries of clerks, stenographers, etc.....	.....	25,618 28	.....	.....
Transfer office, services and expenses.....	.....	6,000 00	.....	.....
Miscellaneous expenses, maintenance.....	.....	2,037 27	.....	.....
Miscellaneous expenses, construction.....	.....	4,280 02	.....	.....
ATTORNEY-GENERAL				
Expenses of searches, etc.....	.....	.....	.....	.....
Construction of Erie, Champlain and Oswego canals.....	.....	4,211 70	.....	.....
Completion of construction of Cayuga and Seneca barge canal.....	.....	67 87	.....	.....
Construction of barge canal terminals.....	.....	2,165 06	.....	.....
Salaries of deputies, title examiners, etc.....	.....	84,233 74	.....	.....
DAMAGES ON ACCOUNT OF CONSTRUCTION				
Erie, Champlain and Oswego canals.....	.....	581,752 05	.....	.....
Cayuga and Seneca barge canal.....	.....	12,027 09	.....	.....
Barge canal terminals.....	.....	464,860 17	.....	.....
DAMAGES TO CONTRACTORS, INCLUDING INTEREST				
Erie, Champlain and Oswego canals.....	.....	31,805 88	.....	.....
Barge canal terminals.....	.....	702 12	.....	.....
DAMAGES ON ACCOUNT OF EXISTING CANALS				
Judgments of the Court of Claims and interest.....	.....	46,240 90	.....	.....

UNEXPENDED BALANCES

49

INVESTIGATION OF CLAIMS				
Services and expenses of agent.....		69,353 11		
MISCELLANEOUS				
Removal of tide gates and construction of Lock, Shinnecock and Peconic Canal.....		35,000 00		
Reimbursing city of North Tonaquanda for paving that portion of Tremont Street within the State blue line.....		788 55		
TRANSFER OF SURPLUS				
Canal Fund to General Fund per Chapter 267, Laws of 1913.....		248,921 37		
CANAL DEBT SINKING FUNDS				
Securities purchased.....		8,428,968 41		
Premium and accrued interest on securities purchased.....		27,930 92		
Interest on outstanding debt.....		5,882,500 00		
Extinguishment of debt 1837 and 1873, pursuant to Chapter 407, Laws of 1920.....		660 00		
	\$218,819 80	\$17,478,724 29	\$3,560 57	\$192,674 68

* Overdraft.

**SUMMARY OF THE SEVERAL FUNDS CHARGEABLE WITH THE VOUCHERS RENDERED BY THE DIVISION ENGINEERS FOR
THE YEAR ENDED JUNE 30, 1920**

	Maintenance and repair	Construction of Erie, Champlain and Oswego Canals	Construction of Cayuga and Seneca Barge Canal	Construction of Barge Canal Terminals	Total
Erie canal:					
Eastern division	\$102,707 02	\$75,559 34	.....	\$147,502 00	\$325,768 36
Middle division	73,990 36	46,055 89	.....	2,684 16	122,730 41
Western division	26,567 27	195,317 97	.....	32,881 91	254,787 15
Total Erie canal	\$203,264 65	\$316,933 20	.....	\$183,068 07	\$703,265 92
Champlain canal .....	.....	\$22,643 15	.....	.....	\$22,643 15
Oswego canal .....	.....	13,910 02	.....	.....	13,910 02
Total Erie, Champlain and Oswego canals	\$203,264 65	\$353,486 37	.....	\$183,068 07	\$739,819 09
Cayuga and Seneca canal .....	.....	.....	\$2,601 31	.....	\$2,601 31
Total all canals	\$203,264 65	\$353,486 37	\$2,601 31	\$183,068 07	\$742,420 40

**SUMMARY OF SEVERAL FUNDS CHARGED WITH VOUCHERS RENDERED BY THE SUPERINTENDENT OF PUBLIC WORKS,
FROM JULY 1, 1919, TO JUNE 30, 1920, AND THE CANALS TO WHICH THEY APPLY**

SUBDIVISION OF CANALS AND TERMINALS		MAINTENANCE AND REPAIRS		Construction of Erie, Champlain, and Oswego canals	Construction of Cayuga and Seneca barge canal	Construction of Barge Canal Terminals	Total
	Budget appropriations	Special appropriations					
ERIE CANAL							
General.....	\$461,387 72	\$194,427 18	\$149 57	.....	.....	.....	\$655,964 47
Eastern division.....	235,141 28	.....	.....	.....	.....	\$826,543 36	1,061,684 64
Middle division.....	128,080 87	.....	.....	.....	.....	9,635 92	137,716 79
Western division.....	59,064 73	.....	.....	.....	.....	606,850 68	665,915 41
Section 1.....	86,330 95	.....	.....	.....	.....	.....	86,330 95
Section 2.....	83,553 48	.....	36,844 98	.....	.....	.....	120,398 46
Section 3.....	101,021 13	.....	200 00	.....	.....	.....	101,221 13
Section 4.....	98,330 40	.....	48,113 85	.....	.....	.....	144,444 25
Section 5.....	109,654 52	16,261 00	14,285 40	.....	.....	.....	140,200 92
Section 6.....	64,378 10	.....	8,786 04	.....	.....	.....	73,164 14
Section 7.....	40,451 27	.....	8,112 06	.....	.....	.....	48,763 33
Section 8.....	91,493 70	.....	110,172 33	.....	.....	.....	201,666 03
Section 9.....	113,817 13	.....	1,149,141 41	.....	.....	.....	1,262,958 54
Section 10.....	107,764 28	9,161 00	104,584 00	.....	.....	.....	221,509 28
Section 11.....	87,040 23	11,343 96	143,333 03	.....	.....	.....	241,717 22
Total.....	\$1,867,709 79	\$231,193 14	\$1,621,722 67	.....	\$1,443,029 96	.....	\$5,163,655 56
CHAMPLAIN CANAL							
Section 1.....	\$64,363 82	.....	\$33,877 14	.....	.....	.....	\$98,040 96
Section 2.....	85,906 36	.....	12,969 99	.....	.....	.....	98,876 35
Section 3.....	47,889 70	.....	.....	.....	.....	.....	47,889 70
Total.....	\$198,159 88	.....	\$46,867 13	.....	.....	.....	\$244,827 01
OSWEGO CANAL.....							
.....	\$64,332 76	.....	\$59,774 61	.....	.....	.....	\$124,107 37
CATUGA AND SENECA CANAL.....							
.....	\$47,311 25	\$64,017 04	.....	.....	\$16,889 98	.....	\$128,218 27
BLACK RIVER C ^N AL.....							
.....	\$61,037 37	\$49,756 47	.....	.....	.....	.....	\$110,793 84
SHINNECOCK AND PECONIC CANAL.....							
.....	.....	\$35,000 00	.....	.....	.....	.....	\$35,000 00
GRIFFIN CREEK.....							
.....	.....	\$3,551 20	.....	.....	.....	.....	\$3,551 20
Total.....	\$2,238,551 05	\$383,547 85	\$1,728,164 41	.....	\$16,889 98	\$1,443,029 96	\$5,810,183 25

* Included in general expenditure table as a miscellaneous item.

**SUMMARY OF CHARGES BY VOUCHERS OF THE SUPERINTENDENT
OF PUBLIC WORKS TO BARGE CANAL TERMINALS FOR THE YEAR
ENDED JUNE 30, 1920**

TERMINAL LOCATION	Eastern division	Middle division	Western division
General charges.....	\$4,761 76		
Albany.....	7,085 28		
Buffalo.....			\$537,450 48
Cohoes.....	272 98		
Cleveland.....		\$3,780 57	
Fonda.....	540 30		
New York City:			
Pier 5, East River.....	\$7,187 01		
Pier 6, East River.....	109,165 99		
West 53d Street.....	110,569 08		
Flushing.....	67,490 22		
Gowanus Bay.....	151,820 64		
Greenpoint.....	107,890 99		
Hallett's Cove.....	7,407 76		
Long Island City.....	119,989 63		
Mott Haven.....	93,807 41		
	775,328 73		
Oswego.....		4,065 03	
Plattsburgh.....	83 03		
Port Henry.....	3,332 71		
Rochester.....			69,400 20
Syracuse.....		1,760 32	
Schenectady.....	3,815 40		
Troy.....	19,589 25		
Utica.....	4,392 65		
Whitehall.....	7,341 27		
Total.....	\$826,543 36	\$9,635 92	\$606,850 68

STATEMENT OF VOUCHERS RENDERED BY THE SUPERINTENDENT OF PUBLIC WORKS, ACCOUNT OF SPECIAL APPROPRIATIONS, FOR THE YEAR ENDED JUNE 30, 1920

CANALS	Deepening the channel of Elliott Creek, Chapters 728, 760, 85 and 644, Laws of 1915, 1917, 1918 and 1919	Construction of a concrete culvert over Eighteen Mile creek, in the City of Lockport, Chapters 626 and 644, Laws of 1917 and 1919	Whitesboro Street Bridge, Rome, Chapters 763 and 177, Laws of 1917 and 1919	Hartel Avenue Bridge, Buffalo, Chapters 761 and 177, Laws of 1917 and 1919	Dive Culvert Rome, Chapters 346 and 185, Laws of 1918 and 1920	Black River Canal Improvement, Chapters 564 and 166, Laws of 1918 and 1920
EXIT CANAL						
General.....
Eastern division.....
Middle division.....
Western division.....
Section 1.....
Section 2.....
Section 3.....
Section 4.....
Section 5.....
Section 6.....
Section 7.....
Section 8.....
Section 9.....
Section 10.....
Section 11.....
Total.....	\$9,772 96	\$9,161 00	.....	\$1,571 00	.....	.....
CHAMPLAIN CANAL						
Section 1.....
Section 2.....
Section 3.....
Total.....
CATUGA AND SENECA.....
BLACK RIVER.....	\$1,386 86	.....	\$16,261 00	\$48,369 61
GRAPPIN CREEK.....
Total all canals.....	\$9,772 96	\$9,161 00	\$1,386 86	\$1,571 00	\$16,261 00	\$48,369 61

VOUCHERS RENDERED BY SUPERINTENDENT OF PUBLIC WORKS AND SPECIAL APPROPRIATIONS — (Concluded)

CANALS	Temporary bridge, Lake Street, Geneva, Chapter 246, Laws of 1919	Lake Street Bridge, Geneva, Chapter 351, Laws of 1918	Towing facilities, Chapters 237, 343, and 264, Laws of 1917, 1918 and 1919	Additional equip- ment, Chapter 352, Laws of 1920	Griffin Creek, Improvement, Chapter 365, Laws of 1918
ERIE CANAL					
General.....					
Eastern Division.....					
Middle division.....					
Western division.....					
Section 1.....			\$177,520 75	\$20,000 00	
Section 2.....					
Section 3.....					
Section 4.....					
Section 5.....					
Section 6.....					
Section 7.....					
Section 8.....					
Section 9.....					
Section 10.....					
Section 11.....					
Total.....					
CHAMPLAIN CANAL					
Section 1.....					
Section 2.....					
Section 3.....					
Total.....					
CAYUGA AND SENECA.....	\$1,300 00	\$59,623 47			
BLACK RIVER.....					
GRIFFIN CREEK.....					\$3,581 20
Total all canals.....	\$1,300 00	\$59,623 47	\$177,520 75	\$20,000 00	\$3,581 20

STATEMENT OF THE TRANSACTIONS OF THE SUPERINTENDENTS OF REPAIRS, SHOWING THE EXPENDITURES FOR THE
YEAR ENDED JUNE 30, 1920, TOGETHER WITH DISTRIBUTION THEREOF

SUPERINTENDENTS OF REPAIRS	Sec- tion	Canal	Expenditures	DISTRIBUTION OF EXPENDITURES				
				General repairs	Inspectors, patrolmen, harbor masters, federal tenders, etc.	Lock tenders	Disbursement clerks	
John W. Stanton.....	1	Erie.....	\$58,596 08	\$44,519 33	\$2,282 00	\$10,615 75	\$1,200 00	
William C. Schoepman.....	2	Erie.....	38,110 75	28,010 75	600 00	8,300 00	1,200 00	
John H. Lynch.....	3	Erie.....	34,233 80	41,008 89	525 00	1,400 04	1,200 00	
John McGraw.....	4	Erie.....	24,703 80	23,012 57	3,725 30	6,783 82	1,200 00	
Albert Garbisch.....	5	Erie.....	44,597 07	28,198 28	5,153 84	10,081 95	1,200 00	
Water J. Seamedel.....	6	Erie.....	33,459 40	18,098 24	2,028 44	1,412 31	1,200 00	
Daniel J. Farrell.....	7	Erie.....	14,438 57	4,709 22	2,750 00	17,380 31	1,150 00	
Henry M. Mittel.....	8	Erie.....	46,438 70	4,704 73	2,664 84	37,889 15	1,200 00	
Bernard J. Hogan.....	9	Erie.....	54,589 48	29,215 09	19,822 26	14,883 06	1,200 00	
D. Gurney Spalding.....	10	Erie.....	54,832 85	14,521 23	26,871 45	19,760 00	1,200 00	
George Klean.....	11	Erie.....	21,246 84	2,829 04	1,712 00	3,704 80	1,200 00	
Daniel Ryan.....	1	Champlain.....	31,293 22	8,579 09	2,415 00	9,569 07	200 00	
R. A. Moore.....	2	Champlain.....	13,513 22	1,286 43	1,126 07	8,500 07	1,200 00	
Daniel McGowan.....	3	Champlain.....	30,720 97	19,821 54	1,850 00	8,869 13	1,200 00	
Edward F. Robbe.....	...	Champlain.....	26,181 20	9,245 65	1,190 00	13,846 55	1,200 00	
Patrick J.'Brien.....	...	Oswego.....	54,201 70	39,007 07	3,604 16	11,494 77	1,200 00	
Clifford L. Beere.....	...	Cayuga and Seneca.....	29,883 75	20,979 99	450 00	6,784 16	1,200 00	
Jeremiah H. Carroll.....	...	Black River.....	22,048 55	2,753 57	4,475 83	13,794 57	1,022 58	
Total.....	...	.....	\$671,509 94	\$369,281 36	\$80,490 59	\$202,685 41	\$19,062 58	

STATEMENT OF TRANSACTIONS OF THE SEVERAL DIVISION ENGINEERS SHOWING BALANCES UNEXPENDED JULY 1, 1919, EXPENDITURES, VOUCHERS RENDERED, AND AMOUNTS REFUNDED DURING THE YEAR, AND BALANCES UNEXPENDED JUNE 30, 1920

	Chapters and Laws	Balance July 1, 1919	Payments	Vouchers	Refunded	Balance June 30, 1920
GEORGE D. WILLIAMS AND E. D. HENDRICKS, DIVISION ENGINEERS, EASTERN DIVISION						
<i>Ordinary and Special Bills</i>						
Ordinary repairs, salaries and compensation.....	{ 644-1919 } { 185-1920 }	.....	\$64,866 35	\$70,936 39	.....	\$66,070 04
Ordinary repairs, expenses and supplies.....	177-1919	.....	13,400 00	12,709 19	.....	690 81
Blue line survey, salaries and compensation.....	177-1919	.....	15,300 00	15,300 00	.....	.....
Blue line survey, expenses and supplies.....	177-1919	.....	2,200 00	2,200 00	.....	.....
Surveys court of claims, salaries and compensation.....	177-1919	.....	1,000 00	1,000 00	.....	.....
Surveys court of claims, expenses and supplies.....	177-1919	.....	37 67	561 44	.....	.....
High street bridge, Cohoes.....	{ 181-1917 } { 181-1918 }	\$220 18	.....	.....	\$220 18	.....
Schenectady, Scotia bridge.....	733-1917	40 49	.....	.....	40 49	.....
Construction, Erie, Champlain and Oswego canals: Head office.....		.....	.....	.....	.....	.....
Erie canal, Eastern Division.....	147-1903	.....	152,000 00	40,085 30	.....	16,908 64
Erie canal, Middle Division.....	570-1915	8,158 42	.....	23,769 12	.....	.....
Erie canal, Western Division.....	182-1918	.....	.....	48,673 00	.....	.....
Champlain canal, Eastern Division.....	50-1920	.....	.....	20,042 63	.....	.....
Oswego canal, Middle Division.....	.....	.....	.....	8,389 71	.....	.....
*Erie canal, Eastern Division.....	.....	6,477 09	35,000 00	35,474 04	.....	6,003 05
Champlain canal, Eastern Division.....	.....	2,321 29	500 00	2,600 50	.....	220 79
Construction of barge canal terminals.....	746-1911 340-1918 137-1919	11,091 86	137,000 00	142,924 01	.....	5,167 85
Construction of Hudson river terminals.....	556-1918 { 49-1920 }	620 30	2,052 69	2,672 99	.....	.....
Construction of grain terminals at Oswego and Gowanus bay.....	698-1920	.....	.....	1,905 00	.....	.....
Totals.....	.....	\$26,929 68	\$423,356 71	\$431,445 34	\$260 67	\$20,580 33

* Includes Schenectady-Scotia bridge as provided by chapter 634, Laws of 1919.

† Credit balance.

GUY MOUTON, DIVISION ENGINEER, MINNETTO DIVISION
Ordinary Repairs and Special Bills

Ordinary repairs, salaries and compensation.....	151-1918	\$15 08	\$42,029 14	\$45,985 00	\$15 08	\$73,955 86
Ordinary repairs, expenses and supplies.....	644-1919	.....	6,600 00	6,600 00	.....	.....
Blue line surveys, salaries and compensation.....	185-1920	.....	.....	.....	.....	.....
Blue line surveys, salaries and compensation.....	151-1918	729 50	11,500 00	11,499 91	729 50	09
Blue line surveys, salaries and compensation.....	151-1918	1,386 23	3,000 00	3,000 00	1,386 23	.....
Blue line surveys, salaries and compensation.....	151-1918	1 54	2,000 00	1,998 88	1 54	1 12
Surveys court of claims, salaries and compensation.....	151-1918	154 17	1,000 00	1,000 00	154 17	.....
Surveys court of claims, expenses and supplies.....	151-1918	.....	.....	.....	.....	.....
Construction of bridge, Yorkville, section 5, Erie canal.....	151-1918	251 84	.....	.....	251 84	.....
Construction of bridge, Minnetto, Oswego canal.....	151-1917	16 15	.....	.....	16 15	.....
Barge canal extension survey, Erie canal.....	151-1917	140 79	.....	.....	140 79	.....
Construction of east Whitesboro street bridge, Rome, B. R. canal.....	786-1917	114 65	.....	114 65	.....	.....
Dive culvert, Rome, Erie canal.....	846-1918	399 11	.....	89 64	.....	390 47
Lake street bridge, Geneva, Cayuga and Seneca canals.....	351-1918	574 69	4,000 00	3,682 28	.....	882 31
Improvement of Glen and Mill creeks, Cayuga and Seneca canal.....	341-1918	379 13	.....	.....	.....	379 13
Construction of Erie, Champlain and Oswego canals: Erie canal, Middle division.....	147-1903	7,393 91	16,000 00	20,286 77	.....	3,112 14
Oswego canal, Middle Division.....	162-1915	1,911 05	6,000 00	5,320 31	.....	2,560 74
Construction of Cayuga and Seneca Barge canals.....	381-1909	3,393 43	.....	2,601 31	.....	792 12
Construction of Barge canal terminals.....	746-1911	2,340 27	2,000 00	2,684 16	.....	1,656 11
Totals.....	137-1919	\$19,266 44	\$94,129 14	\$104,882 91	\$2,697 30	\$5,757 37

† Credit balance.

STATEMENT OF TRANSACTIONS OF THE SEVERAL DIVISION ENGINEERS SHOWING BALANCES — (Concluded)

	Chapters and Laws	Balance July 1, 1919	Payments	Vouchers	Refunded	Balance June 30, 1920
L. C. HULBURD, DIVISION ENGINEER, WESTERN DIVISION						
<i>Ordinary Repairs and Special Bills</i>						
Ordinary repairs, salaries and compensation.....	644-1919	.....	\$9,800 00	\$9,800 00	.....	.....
Blue line surveys, salaries and compensation.....	177-1919	.....	11,000 00	11,000 00	.....	.....
Blue line surveys, expenses and compensation.....	177-1919	.....	2,000 00	2,000 00	.....	.....
Surveys court of claims, salaries and compensation.....	177-1919	.....	2,000 00	2,000 00	.....	.....
Surveys court of claims, expenses and supplies.....	177-1919	.....	500 00	500 00	.....	.....
Concrete culvert, Eighteen Mile creek, Lockport, Erie canal.	{ 636-1917 }	\$910 41	250 00	860 41	.....	.....
	634-1919	.....	.....	.....	\$902 60	.....
Flood prevention, Griffin creek, Cuba, Erie canal.	635-1918	602 60	.....	.....	.....	.....
Ellicott creek improvement, Erie canal.	634-1918	598 83	1,000 00	608 86	.....	\$991 97
	760-1917	.....	.....	.....	.....	.....
	644-1919	.....	.....	.....	.....	.....
	147-1908	.....	.....	.....	.....	.....
Construction, Erie, Champlain and Oswego canals, Western Division.	{ 570-1915 }	13,559 60	140,000 00	146,642 97	.....	6,916 63
	183-1918	.....	.....	.....	.....	.....
	80-1920	.....	.....	.....	.....	.....
Construction, Barge canal terminals.	{ 746-1911 }	5,310 29	36,000 00	32,881 91	.....	8,428 38
	340-1918	.....	.....	.....	.....	.....
	{ 187-1919 }	.....	.....	.....	.....	.....
Totals.....	.....	\$80,081 73	\$302,300 00	\$306,092 15	\$902 60	\$16,336 98
Total, all divisions.....	.....	\$86,819 80	\$719,835 85	\$742,430 40	\$3,560 57	\$42,674 08

STATEMENT SHOWING VOUCHERS RENDERED BY THE DIVISION ENGINEERS OF THE SEVERAL DIVISIONS FOR THE YEAR ENDED JUNE 30, 1920, AND NATURE OF THE WORK AND THE CANALS TO WHICH SUCH WORK IS CHARGEABLE

	George D. Williams and E. D. Hendricks division engineer, eastern division	Guy Moulton, division engineer, middle division	L. C. Hulburd, division engineer, western division	Total
Ordinary repairs and special bills:				
Erie canal.....	\$101,145 58	.....	\$24,067 27	\$125,212 85
Champlain canal.....	.....	.....	.....	.....
Oswego canal.....	.....	.....	.....	.....
Cayuga and Seneca canal.....	.....	\$70,991 48	.....	\$70,991 48
Black river canal.....	.....	.....	.....	.....
Totals.....	\$101,145 58	\$70,991 48	\$24,067 27	\$196,204 33
State court of claims surveys:				
Erie canal.....	\$1,561 44	\$2,993 88	\$2,500 00	\$7,060 32
Construction, Erie, Champlain and Oswego canals:				
Erie canal.....	\$150,003 44	\$20,286 77	\$146,642 97	\$316,933 18
Champlain canal.....	22,643 17	.....	.....	22,643 17
Oswego canal.....	8,689 71	5,320 31	.....	13,910 02
Totals.....	\$181,296 32	\$25,607 08	\$146,642 97	\$353,486 37
Construction, Cayuga and Seneca barge canal.....	.....	\$2,601 31	.....	\$2,601 31
Construction of Hudson river terminals.....	\$2,672 99	.....	.....	\$2,672 99
Construction of grain terminals at Oswego and Gowanus Bay.....	\$1,905 00	.....	.....	\$1,905 00
Construction of barge canal terminals.....	\$142,924 01	\$2,684 10	\$32,881 91	\$178,490 08
Grand totals.....	\$431,445 34	\$104,892 91	\$206,092 15	\$742,420 40

* Also includes Erie canal.

STATEMENT SHOWING THE DISTRIBUTION OF VOUCHERS RENDERED BY DIVISION ENGINEERS DURING THE YEAR
ENDED JUNE 30, 1920, ON ACCOUNT OF THE CONSTRUCTION OF THE ERIE, CHAMPLAIN AND OSWEGO CANALS,
CHAPTER 147, LAWS OF 1903, AND THE CAYUGA AND SENECA BARGE CANAL, CHAPTER 391, LAWS OF 1909

ON WHAT ACCOUNT	Amount of voucher	STATE ENGINEER AND DEPUTIES		DIVISION ENGINEER		SENIOR ASSISTANT ENGINEER		EXPERTS	
		Services	Travel	Services	Travel	Services	Travel	Services	Travel
HEAD OFFICE EXPENDITURES, BASED ON PRELIMINARY ESTIMATES OF THE COST OF DIVISIONS									
Erie canal:									
Eastern division.....	\$40,085 30	\$1,034 45	\$159 77	.....	.....	\$3,578 33	\$127 77	\$4,293 89	\$404 68
Middle division.....	25,769 12	665 00	102 71	.....	.....	2,300 36	82 13	2,760 36	260 15
Western division.....	48,675 00	1,256 12	194 01	.....	.....	4,345 12	155 15	5,214 01	491 40
Total, Erie canal.....	\$114,529 42	\$2,955 57	\$456 49	.....	.....	\$10,223 81	\$365 05	\$12,268 26	\$1,156 23
Champlain canal, eastern division.....	20,042 65	517 22	79 89	.....	.....	1,789 17	63 86	2,146 95	202 34
Oswego canal, middle division.....	8,589 71	221 67	34 23	.....	.....	766 78	27 38	920 12	86 72
Totals, head office expenditures, Erie, Champlain and Oswego.....	\$143,161 78	\$3,694 46	\$570 61	.....	.....	\$12,779 76	\$456 31	\$15,335 33	\$1,445 29
DIRECT EXPENDITURES BY DIVISIONS									
Erie canal:									
Eastern division.....	\$35,474 94	.....	.....	.....	.....	\$3,270 00	\$29 67	\$3,620 00	\$511 49
Middle division.....	20,286 77	.....	.....	.....	.....	.....	.....	.....	.....
Western division.....	146,642 97	.....	.....	\$291 78	.....	11,505 57	246 18	.....	.....
Total, Erie canal.....	\$202,403 78	.....	.....	\$291 78	.....	\$14,775 57	\$275 85	\$3,620 00	\$511 49
Champlain canal, eastern division.....	2,600 50	.....	.....	.....	.....	.....	.....	.....	.....
Oswego canal, middle division.....	5,320 31	.....	.....	.....	.....	.....	.....	.....	.....
Total direct expenditures, Erie, Champlain and Oswego canals.....	\$210,324 59	.....	.....	\$291 78	.....	\$14,785 90	\$287 61	\$3,620 00	\$511 49

TOTAL EXPENDITURES BY DIVISIONS									
Erie canal:									
Eastern division	\$75,559 34	\$1,034 45	\$150 77	.....	.....	\$6,848 33	\$157 44	\$7,913 89	\$916 17
Middle division	46,065 89	665 00	102 71	.....	.....	2,300 36	82 13	2,760 36	260 15
Western division	185,317 97	1,256 12	194 01	.....	.....	15,850 69	401 33	5,214 01	491 40
Total, Erie canal	\$316,933 20	\$2,955 57	\$456 49	.....	.....	\$24,999 38	\$640 90	\$15,888 26	\$1,667 72
Champlain canal, eastern division	22,643 13	517 22	79 89	.....	.....	1,789 17	63 88	2,146 95	202 34
Oswego canal, middle division	13,910 02	221 67	34 23	.....	.....	777 11	39 14	920 12	86 72
Grand totals, Erie, Champlain and Oswego canals	\$353,486 37	\$3,694 46	\$570 61	.....	.....	\$27,565 66	\$743 92	\$18,955 33	\$1,956 78
Cayuga and Seneca barge canal	2,601 31	.....	.....	.....	.....	.....	.....	.....	.....

STATEMENT SHOWING THE DISTRIBUTION OF VOUCHERS RENDERED BY DIVISION ENGINEERS — (Continued)

TO WHOM PAID	Clerical services	Assistant engineer	Junior assistant engineer	Engineering assistant	Inspector of engineering works	Boatman	Laborer	Other services
HEAD OFFICE EXPENDITURES, BASED ON PRELIMINARY ESTIMATES OF THE COST OF DIVISIONS								
Erie canal:								
Eastern division.....	\$4,513 91	\$5,359 49	\$4,066 99	\$683 47	\$1,472 80	.....	\$2,538 41	\$5,036 39
Middle division.....	2,901 80	3,445 39	2,633 78	426 32	946 80	.....	1,631 84	3,237 68
Western division.....	5,481 17	6,507 96	4,974 91	805 55	1,788 40	.....	3,082 35	6,115 61
Total, Erie canal.....	\$12,896 88	\$15,312 84	\$11,705 68	\$1,895 34	\$4,208 00	.....	\$7,252 60	\$14,389 68
Champlain canal, eastern division.....	2,256 95	2,679 75	2,048 49	331 74	736 40	.....	1,269 21	2,518 20
Oswego canal, middle division.....	967 27	1,148 46	877 93	142 17	315 89	.....	543 94	1,079 23
Totals, head office expenditures, Erie Champlain and Oswego.....	\$16,121 10	\$19,141 05	\$14,632 10	\$2,369 55	\$5,259 99	.....	\$9,066 75	\$17,987 11
DIRECT EXPENDITURES BY DIVISIONS								
Erie canal:								
Eastern division.....	\$3,080 42	\$8,926 39	\$9,724 38	\$791 07	.....	.....	\$1,537 90	\$2,135 49
Middle division.....	.....	9,067 16	6,335 24	561 10	.....	.....	1,186 77	1,435 18
Western division.....	5,397 03	31,945 03	54,336 70	8,524 89	\$3,997 63	\$1,646 70	11,215 86	2,918 81
Total, Erie canal.....	\$8,377 45	\$49,938 58	\$70,396 32	\$9,877 06	\$3,997 63	\$1,646 70	\$12,989 43	\$6,489 48
Champlain canal, eastern division.....	1,836 18	.....	269 33	.....	.....	.....	.....	454 77
Oswego canal, middle division.....	.....	1,600 89	1,907 59	.....	.....	184 80	.....	446 52
Totals, direct expenditures, Erie, Champlain and Oswego canals.....	\$10,213 63	\$51,599 47	\$72,573 24	\$9,877 06	\$3,997 63	\$1,831 50	\$13,301 36	\$7,390 77

TOTAL EXPENDITURES BY DIVISIONS									
Erie canal:									
Eastern division.....	\$7,494 33	\$14,285 88	\$13,821 37	\$1,454 54	\$1,473 80	.....	\$4,126 21	\$7,171 88	
Middle division.....	2,901 80	13,512 55	8,969 02	9,987 62	946 80	.....	1,817 61	4,672 86	
Western division.....	10,878 20	38,452 98	58,311 61	9,330 54	5,786 03	\$1,646 70	14,298 21	9,034 42	
Total, Erie canal.....	\$21,274 33	\$65,251 42	\$82,102 00	\$11,773 70	\$8,208 63	\$1,646 70	\$20,242 03	\$30,879 16	
Champlain canal, eastern division.....	4,093 13	2,570 72	2,317 82	331 74	736 40	.....	1,289 21	2,972 97	
Oswego canal, middle division.....	967 27	2,809 35	2,785 52	142 17	318 69	.....	855 87	1,525 75	
Grand totals, Erie, Champlain and Oswego canals.....	\$26,334 73	\$70,740 52	\$87,205 34	\$12,246 61	\$9,257 62	\$1,831 50	\$22,367 11	\$25,377 88	
Oayuga and Seneca Barge canal.....	.....	\$920 51	\$128 61	.....	.....	.....	\$1,080 30	\$204 00	

STATEMENT SHOWING THE DISTRIBUTION OF VOUCHERS RENDERED BY DIVISION ENGINEERS — (Concluded)

TO WHOM PAID	Other travel	Instruments, tools and appliances	Office rent	Fuel and light	Stationery and printing	Postage	Telephone and telegraph	Miscel- laneous
HEAD OFFICE EXPENDITURES, BASED ON PRELIMINARY ESTIMATES OF THE COST OF DIVISIONS								
Erie canal:								
Eastern division.....	\$1,218 62	\$1 81	\$860 21	\$5 60	\$440 88	\$113 25	\$547 63	\$3,616 95
Middle division.....	1,783 40	1 16	552 96	3 60	283 42	72 80	352 05	2,325 18
Western division.....	1,479 76	2 19	1,044 54	6 80	535 35	137 51	664 98	4,392 01
Total, Erie canal.....	\$3,481 78	\$5 15	\$2,457 71	\$16 00	\$1,259 65	\$323 56	\$1,564 66	\$10,334 14
Champlain canal, eastern division.....	600 31	90	430 11	2 80	220 44	56 62	203 81	1,808 47
Oswego canal, middle division.....	261 14	39	184 33	1 20	64 48	24 27	117 35	1,775 06
Totals, head office expenditures, Erie, Cham- plain and Oswego.....	\$4,352 23	\$6 45	\$3,072 15	\$20 00	\$1,574 57	\$404 45	\$1,955 82	\$12,917 67
DIRECT EXPENDITURES BY DIVISIONS								
Erie canal:								
Eastern division.....	\$262 73	.....	\$130 00	\$43 06	\$220 92	\$5 53	\$112 92	\$1,103 17
Middle division.....	723 18	.....	.....	166 41	53 90	45 50	46 02	1,687 11
Western division.....	2,146 43	\$86 56	3,466 40	139 58	138 26	283 06	891 79	7,500 57
Total, Erie canal.....	\$3,132 34	\$28 56	\$8,626 40	\$339 25	\$432 08	\$336 12	\$1,050 73	\$10,270 85
Champlain canal, eastern division.....	16 82	.....	.....	.....	.....	.....	.....	23 15
Oswego canal, middle division.....	330 54	.....	.....	.....	.....	1 00	.....	432 10
Totals, direct expenditures, Erie, Champlain and Oswego canals.....	\$3,479 70	\$28 56	\$8,626 40	\$342 45	\$432 08	\$337 37	\$1,070 38	\$10,726 10

TOTAL EXPENDITURES BY DIVISIONS									
Erie canal:									
Eastern division.....	\$1,481 35	\$1 81	\$990 21	\$48 66	\$680 80	\$118 78	\$660 65	\$4,720 12	
Middle division.....	1,506 58	1 16	552 99	170 21	337 32	118 30	398 07	3,962 29	
Western division.....	3,636 19	30 77	4,541 03	136 38	673 61	422 60	1,556 77	11,892 58	
Total, Erie canal.....	\$6,614 12	\$33 74	\$6,084 23	\$355 25	\$1,691 73	\$659 68	\$2,615 39	\$20,604 99	
Champlain canal, eastern division.....	626 13	90	430 11	2 80	220 44	56 87	273 81	1,831 62	
Oswego canal, middle division.....	591 68	39	184 33	4 40	94 48	25 27	137 00	1,207 16	
Grand totals, Erie, Champlain and Oswego canals.....	\$7,831 93	\$35 03	\$6,698 67	\$362 45	\$2,006 65	\$741 82	\$3,026 20	\$23,643 77	
Cayuga and Seneca barge canal.....	\$21 49	.....	\$192 00	\$11 00	\$1 85	\$9 20	\$72 15	\$15 20	

STATEMENT SHOWING THE DISTRIBUTION OF VOUCHERS RENDERED BY DIVISION ENGINEERS DURING THE YEAR
ENDED JUNE 30, 1920, ON ACCOUNT OF CONSTRUCTION OF BARGE CANAL TERMINALS, CHAPTER 746, LAWS
OF 1911

TO WHOM PAID	Amount of voucher	STATE ENGINEER AND DEPUTIES		DIVISION ENGINEER		SENIOR ASSISTANT ENGINEER		EXPERTS	
		Services	Travel	Services	Travel	Services	Travel	Services	Travel
E. D. Hendricks, division engineer, eastern division.....	\$142,924 01	\$3,305 54	\$576 89	.....	\$133 74	\$15,652 99	\$612 42	\$2,352 50	\$196 90
Guy Moulton, division engineer, middle division.....	2,684 16	.....	.....	.....	.....	.....	.....	.....	.....
L. C. Hulbard, division engineer, western division.....	32,881 91	.....	.....	.....	123 98	1,856 '24	19 51	.....	.....
Totals.....	\$178,490 08	\$3,305 54	\$576 89	.....	\$257 72	\$17,509 23	\$631 93	\$2,352 50	\$196 90

STATEMENT SHOWING THE DISTRIBUTION OF VOUCHERS RENDERED BY DIVISION ENGINEERS — (Continued)

TO WHOM PAID	Clerical services	Assistant engineer	Junior assistant engineer	Engineering assistant	Inspector of engineering works	Boatman	Laborer	Other services
E. D. Hendricks, division engineer, eastern division	\$10,471 37	\$36,781 21	\$26,568 68	\$5,048 64	\$4,836 51	\$3,847 80	\$9,303 42	\$5,637 31
Guy Moulton, division engineer, middle division	.. 2,573 63	1,645 00	401 43	64 80	.... 882 36	.... 524 70	.. 1,892 80	489 17
L. C. Hulburd, division engineer, western division		9,890 64	11,571 28	552 20				.....
Totals	\$13,045 00	\$48,336 85	\$38,541 39	\$5,665 73	\$5,718 87	\$4,372 50	\$11,196 22	\$6,116 48

STATEMENT SHOWING THE DISTRIBUTION OF VOUCHERS RENDERED BY DIVISION ENGINEERS — (Concluded)

TO WHOM PAID	Other travel	Instruments, tools and appliances	Office rent	Fuel and light	Stationery and printing	Postage	Telephone and telegraph	Miscel- laneous
E. D. Hundrich, division engineer, eastern di- vision.....	\$2,503 39	\$82 40	\$82,322 70	\$390 12	\$1,119 81	\$143 75	\$688 14	\$10,463 69
Gey Moulton, division engineer, middle division..	62 02	.....	.....	.....	.....	.....	20	1 45
L. C. Hulburd, division engineer, western division..	96 71	.....	785 00	29 03	.....	40 66	195 01	1,848 17
Totals.....	\$2,661 12	\$82 40	\$83,107 70	\$319 16	\$1,119 81	\$184 40	\$883 35	\$12,308 31

CLASSIFICATION OF EXPENDITURES ON ACCOUNT OF THE CONSTRUCTION OF THE ERIE, CHAMPLAIN AND OSWEGO
BARGE CANALS FOR EACH FISCAL YEAR TO AND INCLUDING JUNE 30, 1920

FOR THE PURPOSE OF	1904	1905	1906	1907	1908
Engineering expenses.....	\$168,577 98	\$315,177 53	\$443,893 52	\$606,123 94	\$742,790 19
Salaries and expenses of advisory board of consulting engineers.....	21,061 38	37,593 58	38,565 00	34,156 10	41,408 13
Salary and expenses of advisory engineer to Canal Board.....	.....	.....	.....	1,111 11	9,999 96
Payments to contractors for damages.....	.....	46,800 00	406,564 58	1,369,041 29	3,214,882 61
Constructing highways in lieu of existing highways.....	.....	.....	.....	.....	.....
Protecting existing canal structures.....	.....	.....	.....	.....	.....
Advertising for bids on contracts.....	.....	735 50	961 35	1,146 42	14,837 09
Expenses in the printing and execution of contracts, serving notices of appropriation of lands, etc.....	.....	908 91	1,239 78	1,901 52	1,739 50
Recording maps of lands appropriated.....	.....	149 86	37 67	333 94	183 43
Recording deeds of lands appropriated.....	.....	.....	9 90	43 68	74 82
Expenses of searches, recording, salaries and expenses of Title Examiners, Attorney General's office.....	.....	.....	.....	.....	.....
Payments for lands appropriated and for damages to lands, etc.....	.....	1,632 24	174,594 88	188,003 24	179,499 20
Salaries and expenses of board of special examiners and appraisers of lands.....	10,491 69	26,491 19	25,849 12	23,831 28	13,915 61
Salaries and expenses of special examiner and appraiser of lands.....	.....	.....	.....	.....	2,697 42
Investigating claims, witness fees, etc.....	.....	.....	495 60	1,045 15	2,456 86
Preparing barge canal bonds.....	.....	4,140 54	.....	1,886 58	1,456 89
Advertising sale of barge canal bonds.....	.....	3,083 60	3,069 50	2,585 50	4,338 89
Establishing barge canal proposition.....	129,126 25	.....	.....	.....	.....
Comptroller's office, clerical services and expenses.....	.....	.....	120 97	1,069 82	1,200 00
Total.....	\$329,267 30	\$436,832 85	\$1,174,043 87	\$2,136,736 27	\$4,234,562 85
Unexpended balances June 30, 1920, in hands of Division Engineers.....	.....	.....	.....	.....	.....

CLASSIFICATION OF EXPENDITURES — (Continued)

FOR THE PURPOSE OF	1909	1910	1911	1912	1913
Engineering expenses.....	\$906,629 76	\$904,475 82	\$1,032,647 33	\$1,167,152 41	\$1,182,490 65
Salaries and expenses of advisory board of consulting engineers.....	41,299 76	41,664 86	34,238 48	.....	11,028 14
Salaries and expenses of consulting engineers to the Canal Board.....	.....	.....	.....	.....	3,093 50
Salary and expenses of advisory engineer to Superintendent of Public Works.....	6,804,841 18	7,549,005 67	1,370 62	3,178 95	12,143,657 82
Payments to contractors.....	10,833 37	916 66	12,123,603 01	*12,767,363 22	443,733 63
Constructing highways in lieu of existing highways.....	6,108,893 30	4,463 92	.....	123,86 125 68	147,536 92
Protecting existing canal structures.....	1,581 33	9,599 54	81,723 41	123,865 31	233,760 32
Advertising for bids on contracts.....	14,991 24	8,740 27	40,732 42	44,100 37	5,081 92
Expenses in the printing and execution of contracts, serving notices of appropriations of lands, etc.....	3,984 30	4,018 35	3,211 71	2,430 40	.....
Recording maps of lands appropriated.....	2,263 58	3,372 23	5,071 54	8,196 57	11,276 38
Recording deeds of lands appropriated.....	396 45	1,383 20	1,037 20	832 26	409 91
Expenses of searches, recording, salaries and expenses of Title Examiners, Attorney General's office.....	73 34	136 26	64 91	44 40	155 05
Payments for lands appropriated and for damages to lands, etc.....	343,365 88	777,289 25	2,327,547 61	1,099,183 89	1,498,427 61
Salaries and expenses of board of special examiners and appraisers of lands.....	6,549 39	7,263 14	13,228 54	15,196 43	15,909 87
Salaries and expenses of special examiner and appraiser of lands.....	20,116 77	40,338 91	33,986 57	26,940 17	31,839 04
Investigating claims, witness fees, etc.....	6,132 99	6,489 43	7,780 00	15,228 34	11,783 77
Preparing Barge canal bonds.....	17,607 38	2,018 29	8,301 80	17,550 59	.....
Advertising sale of Barge canal bonds.....	.....	.....	.....	.....	.....
Publishing Barge canal proposition.....	.....	.....	.....	.....	.....
Comptroller's office, clerical services and expenses.....	2,837 91	3,856 75	3,900 00	7,103 51	20,337 31
Total.....	\$8,292,398 03	\$9,365,632 55	\$15,718,375 15	\$15,404,522 50	\$15,760,512 84
Unexpended balances June 30, 1920, in hands of Division Engineers.....	.....	.....	.....	.....	.....

* Includes \$62,296.93 paid by Superintendent of Public Works to complete defaulted contracts.

CLASSIFICATION OF EXPENDITURES — (Continued)

FOR THE PURPOSE OF	1914	1915	1916 (Nine months)	1917	1918
Engineering expenses.....	\$1,121,776 64	\$748,538 24	\$448,982 06	\$679,663 93	\$593,393 71
Salaries and expenses of advisory board of consulting engineers.....	20,504 65	6,182 46	.....	.....	.....
Salaries and expenses of consulting engineers to the canal board.....	2,958 29	1,273 18	.....	.....	.....
Salary and expenses of advisory engineer to Superintendent of Public Works.....	12,757,989 32	7,397,472 62	3,017,994 99	3,371,345 45	3,881,715 41
Payments to contractors for damages.....	.....	379,929 55	319,953 06	259,220 84	43,965 59
Constructing highways in lieu of existing highways.....	127,014 23	103,986 02	32,330 86	32,118 49	19,958 24
Protecting existing canal structures and completing Contracts 47A and 63A.....	172,223 31	35,973 99	371,580 17	299,925 51	477,820 94
Advertising for bids on contracts.....	2,991 10	3,334 58	3,616 55	3,847 96	4,330 43
Expenses in the printing and execution of contracts, serving notices of appropriations of lands, etc.....	8,050 11	7,216 33	9,290 50	12,662 30	8,581 15
Recording maps of lands appropriated.....	444 77	23 85	161 67	230 72	158 69
Recording deeds of lands appropriated.....	7 10	.....	.....	.....	.....
Expenses of searches, recording, salaries and expenses of Title examiners, Attorney-General's office.....	2,752,763 38	19,039 20	43,859 50	73,698 70	82,386 19
Payments for lands appropriated and for damages to lands, etc.....	.....	756,084 09	2,059,031 41	2,066,827 16	683,492 56
Salaries and expenses of board of special examiners and appraisers of lands.....	.....	.....	.....	.....	.....
Salaries and expenses of special examiner and appraiser of lands.....	16,139 55	10,522 64	.....	.....	.....
Investigating claims, witness fees, etc.....	33,802 57	31,183 56	56,946 94	56,334 56	64,764 22
Preparing Barge canal bonds.....	17,326 93	6,883 48	16,439 00	8,549 00	5,150 00
Advertising sale of Barge canal bonds.....	11,455 53	4,03 07	4,419 52	3,195 47	.....
Publishing Barge canal proposition.....	.....	.....	.....	.....	.....
Comptroller's office, clerical services and expenses.....	22,623 61	21,399 61	13,728 65	19,996 71	19,860 27
Payments for personal injuries.....	.....	.....	.....	.....	15,581 88
Total.....	\$17,067,871 09	\$9,533,080 47	\$6,398,305 48	\$6,887,816 80	\$5,901,159 28
Unexpended balances June 30, 1920, in hands of division engineers.....	.....	.....	.....	.....	.....

CLASSIFICATION OF EXPENDITURES — (Concluded)

FOR THE PURPOSE OF	1919	1920	Total
Engineering expenses.....	\$504,503 03	\$353,486 37	\$11,810,272 71
Salaries and expenses of advisory board of consulting engineers.....	.....	.....	298,392 26
Salaries and expenses of Consulting Engineers to the Canal Board.....	.....	.....	37,716 25
Salaries and expenses of Advisory Engineer to Superintendent of Public Works.....	.....	.....	31,735 45
Payments to contractors.....	4,325,021 94	1,695,165 68	92,982,814 79
Payments to contractors for damages.....	1,009,208 50	31,806 88	2,757,899 05
Constructing highways in lieu of existing highways.....	1,320 00	.....	681,084 35
Protecting existing canal structures and completing contracts.....	463,569 19	30,917 70	2,210,809 15
Advertising for bids on contracts.....	3,410 40	1,218 47	47,606 27
Expenses in the printing and execution of contracts, serving notices of the appropriation of lands, etc.....	3,685 44	805 13	98,310 97
Recording maps of lands appropriated.....	113 31	37 34	5,862 27
Recording deeds of lands appropriated.....	.....	.....	609 46
Expenses of searches and recording; salaries and expenses of Title Examiners, Attorney-General's office.....	85,211 09	88,445 44	392,840 12
Payments for lands appropriated and for damages to lands, etc.....	935,392 39	581,752 05	16,424,375 84
Salaries and expenses of Board of Special Examiners and Appraisers of lands.....	.....	.....	100,615 92
Salaries and expenses of Special Examiner and Appraisers of land.....	.....	.....	87,807 05
Investigating claims, witness fees, etc.....	56,038 57	56,818 52	514,607 00
Preparing Barge Canal bonds.....	.....	.....	119,216 95
Advertising sale of Barge Canal bonds.....	.....	.....	77,614 65
Publishing Barge Canal proposition.....	.....	.....	129,126 25
Comptroller's office, clerical services and expenses.....	25,377 73	20,922 15	194,226 00
Payments for personal injuries.....	.....	.....	15,651 85
Total.....	\$7,502,866 69	\$2,801,394 82	\$129,005,166 74
Unexpended balances June 30, 1920, in hands of Division Engineers.....	.....	.....	28,535 22
Overdraft charged to Erie, Champlain and Oswego Canals by Division Engineers.....	.....	.....	7,304 77
Amount refunded by Division Engineers and credited to Miscellaneous Receipts.....	.....	.....	397 53
	.....	.....	\$129,041,404 26

THESE EXPENDITURES ARE DISTRIBUTED TO THE VARIOUS SECTIONS OF THE CANALS, AS FOLLOWS:

FOR THE PURPOSE OF	1904	1905	1906	1907	1908
Erie canal:					
Section 1.....	\$31,011 06	\$35,868 42	\$190,862 47	\$299,153 18	\$718,647 34
Section 2.....	17,254 96	29,421 73	38,232 03	129,107 10	288,247 60
Section 3.....	19,949 12	25,568 63	48,544 36	80,675 22	152,105 41
Section 4.....	16,596 26	19,567 48	38,107 81	87,516 48	276,318 54
Section 5.....	43,351 69	52,836 33	109,501 68	315,950 75	325,683 51
Section 6.....	10,891 74	25,315 38	18,421 83	14,733 10	102,877 44
Section 7.....	12,731 54	12,691 30	29,744 28	113,084 11	155,536 80
Section 8.....	18,101 36	19,740 28	23,166 65	36,859 41	60,042 07
Section 9.....	43,841 51	50,033 56	343,018 64	273,657 39	329,042 82
Section 10.....	37,866 10	34,068 19	51,212 59	47,925 83	104,836 09
Section 11.....	8,714 75	12,162 59	6,943 15	19,555 79	118,547 81
Total Erie canal.....	\$260,311 02	\$317,273 89	\$897,755 47	\$1,418,218 36	\$2,631,935 43
Champlain canal:					
Section 1.....	\$13,735 26	\$15,981 52	\$18,597 50	\$34,683 79	\$35,580 75
Section 2.....	20,229 63	47,170 80	205,731 15	484,261 06	541,104 22
Section 3.....	13,710 30	25,533 77	21,448 58	109,077 71	809,196 42
Total Champlain canal.....	\$47,675 19	\$88,706 09	\$245,777 23	\$628,022 56	\$1,385,884 39
Oswego canal.....	\$21,271 09	\$30,852 87	\$30,510 17	\$90,495 35	\$216,743 03
Total all canals.....	\$329,257 30	\$436,832 85	\$1,174,042 87	\$2,136,736 27	\$4,284,562 85

EXPENDITURES DISTRIBUTED TO THE VARIOUS SECTIONS OF THE CANALS — (Continued)

FOR THE PURPOSE OF		1909	1910	1911	1912	1913
Erie canal:						
Section 1.....		\$791,399 34	\$501,508 97	\$521,190 18	\$237,815 66	\$198,190 36
Section 2.....		774,917 60	711,578 70	423,577 40	426,724 10	1,301,951 85
Section 3.....		719,964 90	560,510 28	839,291 12	958,946 69	1,087,282 08
Section 4.....		443,613 10	504,634 24	1,209,968 51	1,189,412 75	832,808 29
Section 5.....		499,915 82	928,660 17	2,435,060 56	1,346,409 99	1,414,185 19
Section 6.....		841,278 93	352,822 15	602,520 08	315,083 52	291,632 75
Section 7.....		367,775 90	436,858 57	585,312 12	697,484 66	921,414 31
Section 8.....		121,218 53	496,337 50	1,093,696 90	2,324,461 84	1,881,615 53
Section 9.....		920,724 86	1,221,253 24	2,154,160 01	2,476,450 64	2,923,135 63
Section 10.....		765,847 85	1,377,435 78	1,931,763 54	2,308,440 29	2,556,802 44
Section 11.....		168,917 84	259,430 69	197,019 68	84,982 10	66,917 50
Total Erie canal.....		\$6,415,572 86	\$7,450,030 39	\$11,943,571 25	\$12,366,212 24	\$12,678,995 90
Champlain canal:						
Section 1.....		\$300,490 90	\$649,928 00	\$1,668,164 37	\$824,231 79	\$845,815 01
Section 2.....		370,722 91	161,506 53	190,745 04	403,175 15	578,283 20
Section 3.....		852,870 20	567,752 10	529,558 19	518,800 52	414,568 99
Total Champlain canal.....		\$1,524,084 01	\$1,379,586 63	\$2,388,467 60	\$1,756,207 46	\$1,838,720 20
Oswego canal.....		\$322,741 16	\$536,015 53	\$1,416,336 30	\$1,282,102 80	\$1,442,795 74
Total all canals.....		\$8,292,398 03	\$9,365,632 55	\$15,718,375 15	\$15,404,522 50	\$15,760,511 84

EXPENDITURES DISTRIBUTED TO THE VARIOUS SECTIONS OF THE CANALS — (Continued)

FOR THE PURPOSE OF	1914	1915	1916	1917	1918
Erie canal:					
Section 1.....	\$331,342 99	\$202,298 63	\$154,690 60	\$156,258 31	\$71,231 10
Section 2.....	1,131,370 44	1,367,342 41	669,283 03	476,926 59	478,780 89
Section 3.....	949,963 87	641,455 26	660,583 60	368,863 13	176,713 12
Section 4.....	1,289,424 12	1,333,636 47	901,614 60	938,678 18	411,623 79
Section 5.....	2,085,189 60	1,894,251 46	828,182 54	794,223 55	532,190 28
Section 6.....	498,182 06	232,233 33	43,476 04	94,028 23	98,809 56
Section 7.....	1,419,592 80	102,988 79	80,388 22	290,253 62	297,585 55
Section 8.....	1,878,810 85	241,036 32	621,006 86	484,512 57	990,900 63
Section 9.....	1,409,238 58	373,806 57	813,509 38	1,968,947 72	1,770,380 23
Section 10.....	2,106,562 60	525,559 22	321,068 33	166,724 15	214,968 15
Section 11.....	124,173 97	28,218 38	15,691 42	506,656 88	208,606 59
Total Erie canal.....	\$13,223,892 37	\$7,090,777 84	\$4,949,492 52	\$6,874,102 93	\$5,215,706 89
Champlain canal:					
Section 1.....	\$1,726,488 84	\$1,263,952 55	\$638,111 95	\$559,561 08	\$344,319 83
Section 2.....	471,368 80	380,350 54	268,416 09	100,909 55	154,933 54
Section 3.....	69,751 46	20,228 55	157,017 89	50,847 81	32,318 62
Total Champlain canal.....	\$2,267,609 10	\$1,669,531 64	\$1,063,544 93	\$711,118 44	\$531,571 99
Oswego canal.....	\$1,576,369 62	\$772,770 99	\$355,268 03	\$302,395 43	\$153,791 40
Total all canals.....	\$17,067,871 09	\$9,533,080 47	\$6,398,306 48	\$9,887,616 80	\$5,801,159 28

EXPENDITURES DISTRIBUTED TO THE VARIOUS SECTIONS OF THE CANALS — (Concluded)

FOR THE PURPOSE OF		1919	1920	Total
Erie canal:				
Section 1.....		\$27,468 06	\$21,804 91	\$4,491,831 28
Section 2.....		326,204 08	220,436 20	8,810,356 86
Section 3.....		59,703 06	30,632 30	7,928,886 21
Section 4.....		484,781 23	73,829 52	10,142,031 37
Section 5.....		530,180 68	69,876 47	14,284,045 33
Section 6.....		284,121 80	49,620 21	3,861,007 04
Section 7.....		241,361 19	45,063 23	5,852,646 49
Section 8.....		550,894 24	182,545 10	10,894,880 78
Section 9.....		3,452,293 50	1,300,000 81	20,844,893 19
Section 10.....		172,048 70	407,311 11	13,203,393 08
Section 11.....		373,989 95	165,924 02	2,363,453 11
Total Erie canal.....		\$6,612,884 26	\$2,628,183 00	\$101,975,005 62
Champlain canal:				
Section 1.....		\$255,627 84	\$55,528 45	\$9,066,707 43
Section 2.....		64,462 59	30,098 99	4,449,921 79
Section 3.....		32,004 81	20,535 72	4,246,064 64
Total Champlain canal.....		\$353,145 24	\$112,161 16	\$17,761,813 86
Oswego canal.....				
		\$536,837 09	\$121,050 66	\$9,268,347 26
Total all canals.....		\$7,502,866 59	\$2,861,394 82	\$129,005,166 74

STATEMENT OF PAYMENTS MADE TO CONTRACTORS ON ACCOUNT OF THE CONSTRUCTION OF THE ERIE, CHAMPLAIN
AND OSWEGO CANALS UNDER CHAPTER 147, LAWS OF 1903, AND AMENDMENTS, FOR THE YEAR ENDED JUNE
30, 1920

Contract	Section	NAME OF CONTRACTOR	Contract work	Extra work	Total payments	Total of section
		Erie Canal				
185	2	American Pipe and Construction Co.	\$26,720 33	.....	\$26,720 33	\$26,480 23
197	3	Stewart Brothers	9,759 90	.....	9,759 90	200 00
137	3	J. A. La Porte	200 00	.....	200 00	46,113 13
146	4	Peckham Construction Co.	46,038 13	\$75 00	46,113 13	2,399 80
187	5	Scott Brothers	2,399 80	.....	2,399 80	8,761 90
188	6	E. Brown Baker	8,761 90	.....	8,761 90	7,358 26
46-B	7	Scott Brothers	7,144 41	213 85	7,358 26	.....
22	7	M. Fitzgerald	500 00	250 00	750 00	8,108 26
164	8	Lathrop, Shea & Henwood	3,968 18	27,173 82	31,141 70	.....
148	8	Lathrop, Shea & Henwood	13,804 50	6,126 19	19,930 69	.....
84	8	Lupfer & Remick	.....	1,031 41	1,031 41	.....
Completion of 84						
198	8	Frank M. Williams, State Engineer	3,799 20	.....	3,799 20	.....
189	8	Lupfer & Remick	22,248 00	.....	22,248 00	95,440 00
138	9	Lathrop, Shea & Henwood	17,289 00	.....	17,289 00	.....
59	9	Combined Construction Co.	279,217 88	.....	279,217 88	.....
192	9	MacArthur Brothers Co.	224,339 36	.....	224,339 36	.....
201	9	Brown & Lowe Co.	271,338 00	.....	271,338 00	.....
179	9	I. M. Ludington Sons, Inc.	8,219 00	.....	8,219 00	.....
190	9	I. M. Ludington Sons, Inc.	5,259 00	.....	5,259 00	.....
191	9	Empire Engineering Co., Inc.	172,269 00	.....	172,269 00	.....
200	9	Empire Engineering Co., Inc.	130,045 00	.....	130,045 00	.....
63-A	9	Lupfer & Remick	14,185 63	4,106 00	18,291 63	.....
144-A	9	State Highway Construction Co.	1,372 02	.....	1,372 02	.....
161	9	Brown & Lowe Co. and Law Brothers	29,241 00	1,105 39	30,346 39	.....
204	9	Lord Construction Co.	415 10	.....	415 10	.....
183	9	I. M. Ludington Sons, Inc.	2,700 00	.....	2,700 00	.....
152	10	Donnell-Zane Co.	163 03	.....	163 03	1,143,975 41
83	11	Lupfer & Remick	103,959 00	324 00	104,283 00	104,283 00
147	11	Mohawk Dredge and Dock Co.	17,760 60	.....	17,760 60	.....
		Lathrop, Shea & Henwood	121,464 00	4,108 43	125,572 43	143,333 03
		Total, Erie Canal	\$1,544,590 97	\$44,513 79	\$1,589,094 76	\$1,589,094 76

STATEMENT OF PAYMENTS MADE TO CONTRACTORS ON ACCOUNT OF THE CONSTRUCTION, ETC. — (Concluded)

Contract	Section	NAME OF CONTRACTOR	Contract work	Extra work	Total payments	Total of section
73-A	1	Great Lakes Drudge and Dock Co. Bronk & Kimney Bronk & Kimney	\$8,611 24	.....	\$8,611 24	.....
168	1		24,415 80	.....	25,045 80	\$33,677 14
168	2		12,726 48	.....	12,726 48	12,726 48
		Total, Champlain Canal.....	\$42,753 62	\$650 00	\$43,403 62	\$46,403 62
117	.....	Oswego Canal Walker S. Roe Walker S. Roe E. Brown Baker	\$21,051 00	.....	\$21,051 00	.....
167	.....		23,330 80	.....	23,330 80	.....
182	.....		15,285 50	.....	15,285 50	\$59,667 30
		Total, Oswego Canal.....	\$59,667 30	.....	\$59,667 30	\$59,667 30
		Total, Erie, Champlain and Oswego Canals.....	\$1,647,001 89	\$45,163 79	\$1,692,165 68	\$1,695,165 68

STATEMENT OF PAYMENTS MADE TO CONTRACTORS ON ACCOUNT OF THE CONSTRUCTION OF THE CAYUGA AND SENECA
BARGE CANAL UNDER CHAPTER 391, LAWS OF 1909, FOR THE YEAR ENDED JUNE 30, 1920

Contract	NAME OF CONTRACTOR	Contract work	Extra work	Total payment
J	W. F. Martens	\$4,581 00	.....	\$4,581 00
Q	W. F. Martens	511 00	.....	511 00
R	Sherman-Stalter Co	1,550 58	.....	1,550 58
T	Kennedy & Scullen Construction Co., Inc.	9,837 00	\$216 77	10,053 77
U	Smith Soper	177 88	.....	177 88
	Total, Cayuga and Seneca Canal	\$16,637 46	\$216 77	\$16,874 23

STATEMENT OF PAYMENTS MADE TO CONTRACTORS ON ACCOUNT OF THE CONSTRUCTION OF BARGE CANAL
TERMINALS UNDER CHAPTER 746, LAWS OF 1911, FOR THE YEAR ENDED JUNE 30, 1920

Contract	NAME OF CONTRACTOR	Terminal	Contract work	Extra work	Total payments	Total of terminal
21	Empire Engineering Co., Inc.	Buffalo	\$92,871 81	.....	\$92,871 81	.....
51	Walsh Construction Co.	Buffalo	259,157 81	.....	259,157 81	.....
61	Walsh Construction Co.	Buffalo	5,639 60	.....	5,639 60	.....
62	Walsh Construction Co.	Buffalo	10,641 45	.....	10,641 45	.....
66	Empire Engineering Co., Inc.	Buffalo	2,149 13	.....	2,149 13	.....
67	Walsh Construction Co.	Buffalo	6,599 60	.....	6,599 60	.....
68	Walsh Construction Co.	Buffalo	6,270 30	.....	6,270 30	.....
69	Richard C. Bush	Buffalo	5,971 53	.....	5,971 53	.....
107	J. Livingston & Co.	Buffalo	11,983 00	\$2,500 00	14,483 00	.....
113	General Electric Co.	Buffalo	1,730 00	349 50	2,079 50	.....
212-H	Pelton Construction Corporation	Buffalo	190,744 00	4,020 24	194,764 24	\$537,183 97
28	Power Efficiency Corporation	Buffalo	2,547 00	.....	2,547 00	.....
28-A	Barrilly & Ingersoll	Buffalo	3,181 77	.....	3,181 77	.....
10-P	Eugene Dawley	Cleveland	513 00	.....	513 00	3,694 77
	Patrick W. Mulderry	Fond du Lac	540 30	.....	540 30	540 30
	GREATER NEW YORK:					
43	McHarg-Barton Co.	Flushing	66,645 00	526 00	67,171 00	67,171 00
56	Diverside Contracting Co.	Gowanus Bay	141,885 00	4,000 00	145,885 00	.....
227	J. A. Laporte	Gowanus Bay	3,345 20	.....	3,345 20	151,230 20
19-P	Hastings Pavement Co.	Greenpoint	20,970 00	.....	20,970 00	.....
77	New Jersey Shipbuilding and Dredging Co.	Greenpoint	10,879 86	.....	10,879 86	.....
112	Lausling Co.	Greenpoint	1,720 21	.....	1,720 21	.....
113	General Electric Co.	Greenpoint	5,730 00	.....	5,730 00	.....
117	Electric Products Co.	Greenpoint	2,380 50	.....	2,380 50	.....
223	Post & McCord	Greenpoint	73,435 95	5,031 37	78,467 32	190,147 59
45	Mohawk Dredge and Dock Co.	Hallett's Cove	7,137 00	.....	7,137 00	7,137 00
42	Leonard Paving Co.	Long Island City	46,080 05	.....	46,080 05	.....
77	New Jersey Shipbuilding and Dredging Co.	Long Island City	19,757 38	.....	19,757 38	.....
108	T. Frederick Jackson, Inc.	Long Island City	432 00	.....	432 00	.....
217	A. E. Norton, Inc.	Long Island City	49,293 90	940 00	50,233 90	.....
217-P	Altman Plumbing Co.	Long Island City	3,765 00	352 25	4,117 25	190,620 58
44	George W. Rogers Co.	Mott Haven	1,692 53	5,346 04	7,038 57	.....
44-P	The Aspinall Construction Co.	Mott Haven	79,311 34	409 04	79,720 38	.....
112	Lausling Co.	Mott Haven	1,720 21	.....	1,720 21	.....
117	Electric Products Co.	Mott Haven	2,380 50	.....	2,380 50	90,859 66



1. *Journal of the American Medical Association*, 1997; 277: 1033-1038.

11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840. 841. 842. 843. 844. 845. 846. 847

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Figure 1. The effect of the concentration of the *Agrobacterium* suspension on the transformation efficiency of *Agrobacterium* strains. The number of transformed cells was determined by the number of colonies obtained on the selective medium. The results are the mean \pm SD of three independent experiments. The number of cells in the suspension was 1×10^8 cells/ml. The concentration of the suspension was 100, 10, 1, and 0.1%.

Table 1. *Continued*

It is important to note that the above results are based on the assumption that the data are stationary. If the data are non-stationary, the results may be biased. Therefore, it is important to test for stationarity before conducting the analysis.

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| 56 | I. J. Stander & Co., Inc. | Pier 5, E. R. | 521 18 | 521 18 | 7,300 96 |
| 77 | New Jersey Shipbuilding and Dredging Co. | Pier 5, E. R. | 6,779 78 | 6,779 78 | |
| 52 | Kaufman & Garvey | Pier 6, E. R. | 8,226 00 | 8,226 00 | |
| 52-P | Stollan Asphalt Paving Co. | Pier 6, E. R. | 3,026 00 | 3,026 00 | |
| 77 | New Jersey Shipbuilding and Dredging Co. | Pier 6, E. R. | 6,779 78 | 6,779 78 | |
| 103-A | Brown Portable Conveying Machinery Co. | Pier 6, E. R. | 5,626 80 | 5,626 80 | |
| 106 | Lord Electric Co. | Pier 6, E. R. | 8,964 00 | 8,964 00 | |
| 109 | General Electric Co. | Pier 6, E. R. | 6,752 00 | 6,752 00 | |
| 112 | Lansing Co. | Pier 6, E. R. | 4,137 58 | 4,137 58 | |
| 207 | I. J. Stander & Co., Inc. | Pier 6, E. R. | 37,825 23 | 40,537 22 | |
| 207-H | Miller & Brady, Inc. | Pier 6, E. R. | 2,352 00 | 2,664 26 | |
| 207-P | Jarcho Bros., Inc. | Pier 6, E. R. | 1,979 00 | 2,196 07 | |
| 38 | I. J. Stander & Co., Inc. | Pier 6, E. R. | 51,150 00 | 51,663 87 | 89,321 90 |
| 109 | General Electric Co. | West 53d street. | 7,805 00 | 7,805 00 | |
| 218 | Donnell-Zane Co. | West 53d street. | 36,477 00 | 36,477 00 | 96,945 87 |
| 226 | J. A. Laporte | Oswego | 3,977 58 | 3,977 58 | 3,977 58 |
| 57 | Charles Kuhin | Rochester | 57,564 00 | 57,564 00 | |
| 228 | William F. Martens | Rochester | 10,594 00 | 10,594 00 | 68,148 00 |
| 103-A | Brown Portable Conveying Machinery Co. | Schenectady | 785 80 | 785 80 | |
| 113 | General Electric Co. | Schenectady | 2,630 00 | 2,630 00 | 3,415 80 |
| 213 | Savage Construction Co. | Syracuse | 1,388 50 | 1,760 32 | 1,760 32 |
| 58 | C. P. Roland & Co. | Troy | 18,989 57 | 18,689 57 | |
| 203-P | M. J. Flannery & Son | Utica | 673 00 | 673 00 | 19,362 57 |
| 15-M | Lunfer & Remick | Utica | 538 72 | 538 72 | |
| 63 | H. W. Roberts & Co. | Utica | 1,225 93 | 1,225 93 | |
| 109 | General Electric Co. | Utica | 2,926 00 | 2,926 00 | 4,660 65 |
| Total..... | | | \$1,364,495 08 | \$1,392,508 72 | \$1,392,508 72 |

STATEMENT SHOWING EXPENDITURES UNDER AGREEMENT WITH SPECIAL EXAMINER AND APPRAISER FOR LANDS APPROPRIATED, AND DAMAGES THERE TO, FOR THE CONSTRUCTION OF THE ERIE, CHAMPLAIN AND OSWEGO CANALS, UNDER CHAPTER 137, LAWS OF 1903, FOR THE YEAR ENDED JUNE 30, 1920

| Map numbers | Section | Canal | NAME | Contract number | Amount | Interest | Total | Total contract | Total section |
|---------------------|---------|-----------|--|-----------------|------------|----------|------------|----------------|---------------|
| 2741..... | 1 | Erie..... | American Telephone and Telegraph Co..... | 14 | \$1,511 70 | \$801 66 | \$2,113 36 | \$2,113 36 | \$2,113 36 |
| 676..... | 2 | Erie..... | The New York Central Railroad Co..... | 8 | 1 00 | ..... | 1 00 | 1 00 | 1 00 |
| 5131..... | 2 | Erie..... | Nellie Van Dyke, special guardian for Aaron Van Dyke, Pauline Van Dyke, Raymond Van Dyke, John Van Dyke and Helen Van Dyke, infants..... | 20-D | 1,424 00 | 290 49 | 1,714 49 | ..... | ..... |
| 5132..... | 2 | Erie..... | Anna F. Deninger, Amelia Timeson, Catherine L. McMichael, Louise Cramer, Caroline M. Cramer and Mary E. Cramer..... | 20-D | 2,797 20 | 564 10 | 3,361 30 | ..... | ..... |
| 5461..... | 2 | Erie..... | John Ulrich..... | 20-D | 1,808 56 | 48 51 | 1,857 07 | 6,933 86 | 6,933 86 |
| 671..... | 3 | Erie..... | Malen Lipes, Alice Moyer and May M. Thurood, individually and as executrices of the will of William Lipes, deceased..... | 14 | 100 00 | 74 37 | 174 37 | ..... | ..... |
| 655 }
4594 } | 3 | Erie..... | George R. Allen and Frank W. Allen (5/1080) interest in both maps..... | 14 }
20-B } | 12 79 | 7 69 | 20 48 | | |
| 5208..... | 3 | Erie..... | George R. Allen and Frank W. Allen (5/1080) interest in both maps..... | 20-B | 23 25 | 4 10 | 27 35 | 47 83 | ..... |
| 5408..... | 3 | Erie..... | Jay Van Evers..... | 20-C | 2,990 00 | 110 63 | 3,100 63 | ..... | ..... |
| 5409..... | 3 | Erie..... | Jay Van Evers..... | 20-C | 10 00 | 37 | 10 37 | 3,111 00 | 3,333 20 |
| 2743..... | 4 | Erie..... | Henry I. Winne..... | 18 | 15 00 | 8 33 | 23 33 | 23 33 | ..... |
| 5314..... | 4 | Erie..... | Howard L. Burch and Ida Sheaf Burch..... | 29-A | 109 53 | 9 74 | 119 27 | 119 27 | ..... |
| 5325..... | 4 | Erie..... | New York State National Bank, Albany, to the credit of C. D. Thomas, et al..... | 30 | 2,300 00 | 1,197 53 | 3,497 53 | 3,497 53 | 3,640 13 |
| 5395..... | 4 | Erie..... | Orley C. Tuttle..... | 4 | 225 00 | 13 24 | 238 24 | 238 24 | ..... |
| 3481..... | 4 | Erie..... | Julia Wells..... | 42-A | 25 00 | 9 54 | 34 54 | 34 54 | ..... |
| 5385..... | 5 | Erie..... | Mary Toepf..... | 43 | 450 00 | 224 10 | 674 10 | 674 10 | ..... |
| 4369..... | 5 | Erie..... | Edward M. Marson..... | 43 | 259 35 | 64 71 | 324 06 | 998 16 | ..... |
| 5006..... | 5 | Erie..... | William Drummond and Julia Drummond..... | 44 | 535 00 | 21 48 | 556 48 | 556 48 | ..... |
| 5420..... | 5 | Erie..... | Isabel J. Smith and Margaret C. Smith..... | 44 | 100 00 | 39 92 | 139 92 | ..... | ..... |
| H-122..... | 5 | Erie..... | Wallace Rathbun, administrator and heir-at-law of Clinton Rathbun, deceased, and heir-at-law of Rathbun..... | 50 | 225 00 | 95 18 | 323 18 | ..... | ..... |
| 3518 and H-162..... | 5 | Erie..... | Rathbun..... | 50 | 225 00 | 95 18 | 323 18 | ..... | ..... |

| | 5 | Erie..... | George H. Bunce, as special guardian for How-
ard Pickard, Maggie Burns, Rachel Burns,
Harriet Burns, Dorothy Burns, and Thomas
Burns, Jr., (½ interest in both maps) | 50 | 50 00 | 24 39 | 74 39 | 537 49 | |
|------------------------------|---|-----------|--|------|----------|--------|----------|-----------|----------|
| 3866 and 3867..... | 5 | Erie..... | Nickolas Schunacher and Elisabeth Schu-
macher..... | 50 | | | | | |
| H-172 and H-173
5005..... | 5 | Erie..... | Fred T. Leasure..... | 51 | 400 00 | 113 60 | 513 60 | | |
| 5216..... | 5 | Erie..... | Charles O. Hart and Eleanor B. Hart..... | 51 | 75 00 | 12 71 | 87 71 | | |
| 5336..... | 5 | Erie..... | Gertrude Jones..... | 55 | 50 00 | 6 06 | 56 06 | | |
| 1791..... | 5 | Erie..... | Jennie V. Bellinger and Mary E. Miller..... | 55 | 10 00 | 5 92 | 15 92 | 657 40 | |
| 1796..... | 5 | Erie..... | James Burns..... | 55 | 50 00 | 29 64 | 79 64 | 95 56 | |
| 5201..... | 5 | Erie..... | Herman Malkhy..... | 132 | 30 00 | 4 64 | 34 64 | 34 64 | 3,162 51 |
| 5398..... | 6 | Erie..... | Otis Michaels..... | 12 | 200 00 | 9 00 | 209 00 | | |
| 5399..... | 6 | Erie..... | Carl H. Getty..... | 12 | 1,633 75 | 151 04 | 1,785 69 | | |
| 5402..... | 6 | Erie..... | Mary L. Porter..... | 12 | 388 34 | 33 73 | 422 07 | | |
| 5411..... | 6 | Erie..... | Anna C. Walsh..... | 12 | 347 34 | 22 05 | 369 39 | | |
| 5412..... | 6 | Erie..... | Howard G. Ray and C. Gerald Gregg..... | 12 | 100 00 | 3 15 | 103 15 | | |
| 5413..... | 6 | Erie..... | Jackson C. Abbott, Henry C. Abbott, and
Mabel F. Abbott, as assignees of William M.
Abbott..... | 12 | 1,300 00 | 36 83 | 1,336 83 | | |
| 5414 and 5415..... | 6 | Erie..... | Amliott Realty Co..... | 12 | 1,131 85 | 27 92 | 1,159 77 | | |
| 5421..... | 6 | Erie..... | Lafayette Evans, individually and as executor,
administrator c. t. a. of Ella Collins, deceased..... | 12 | 6,500 00 | 134 33 | 6,634 33 | | |
| 5422..... | 6 | Erie..... | Leola E. Rouse..... | 12 | 1,718 79 | 51 57 | 1,770 36 | | |
| 5424..... | 6 | Erie..... | Arthur D. Woods..... | 12 | 250 00 | 9 46 | 259 46 | | |
| 5425..... | 6 | Erie..... | William C. Miller and Laura E. Cooper..... | 12 | 250 00 | 8 92 | 258 92 | | |
| 5426..... | 6 | Erie..... | Henry L. Bassett..... | 12 | 400 00 | 21 13 | 421 13 | | |
| 5427..... | 6 | Erie..... | Edward A. Bettinger..... | 12 | 400 00 | 23 13 | 423 13 | | |
| 5429..... | 6 | Erie..... | James Henderson and Jane W. Henderson..... | 12 | 2,106 50 | 34 06 | 2,140 56 | | |
| 5430..... | 6 | Erie..... | William E. Lynde and Alice E. Lynde..... | 12 | 805 60 | 13 03 | 818 63 | | |
| 5434..... | 6 | Erie..... | Nora E. Weston..... | 12 | 1,500 00 | 63 75 | 1,563 75 | | |
| 5448..... | 6 | Erie..... | Glen D. Moyer..... | 12 | 50 00 | 1 68 | 51 68 | | |
| 5453..... | 6 | Erie..... | James Murray..... | 12 | 983 22 | 32 93 | 1,016 15 | | |
| 5456..... | 6 | Erie..... | Philip Claus..... | 12 | 873 12 | 29 39 | 902 51 | | |
| 5458..... | 6 | Erie..... | Christopher Brockmyre and Catherine Lake..... | 12 | 400 00 | 16 26 | 416 26 | 22,072 82 | |
| 5460..... | 7 | Erie..... | Charles E. Heit, Della Heit, and Ears S. Heit..... | 12 | 523 50 | 27 86 | 551 36 | 551 36 | |
| 5461..... | 8 | Erie..... | Lua M. O'Call, Heide Brand and Charles Van-
derbilt..... | 47 | 100 00 | 14 47 | 114 47 | 933 19 | |
| 5462..... | 8 | Erie..... | West Shore Railroad Co., & The New York
Central Railroad Co..... | 47-A | 2,405 90 | 334 82 | 2,740 72 | | |
| 5463..... | 8 | Erie..... | Phiny T. Seron..... | 47-A | 6,000 00 | 229 00 | 6,229 00 | | |
| 3507-B..... | 8 | Erie..... | Central Railroad Co., & The New York
Central Railroad Co..... | 47-A | 181 07 | 20 70 | 191 77 | 9,873 04 | |
| 2583..... | 8 | Erie..... | | 48 | 35 00 | 14 93 | 49 93 | 49 93 | |
| 3597-B..... | 8 | Erie..... | | 49 | 564 36 | 312 83 | 877 19 | 877 19 | |
| | | | | 76 | 211 00 | 114 12 | 325 12 | 325 12 | |

STATEMENT SHOWING EXPENDITURES UNDER AGREEMENT WITH SPECIAL EXAMINER AND APPRAISER — (Cont'd)

| Map numbers | Section | Canal | NAME | Contract number | Amount | Interest | Total | Total contract | Total section |
|----------------------------|---------|----------------|---|-----------------|-------------|-------------|-------------|----------------|---------------|
| 2921-A..... | 8 | Erie..... | American Telephone & Telegraph Co..... | 77 | \$778 72 | \$389 75 | \$1,168 47 | ..... | ..... |
| 2926-A and 2926-A..... | 8 | Erie..... | Empire Gas & Electric Co..... | 77 | 75 00 | 36 96 | 111 96 | ..... | ..... |
| 3039..... | 8 | Erie..... | Phily T. Sexton..... | 77 | 2,500 00 | 1,271 67 | 3,771 67 | ..... | ..... |
| 4047..... | 8 | Erie..... | West Shore Railroad Co., & The New York Central Railroad Co..... | 77 | 110 00 | ..... | 110 00 | \$5,162 10 | ..... |
| 5371..... | 8 | Erie..... | L. J. Hazen..... | 164 | 1,500 00 | ..... | 1,500 00 | 1,500 00 | \$18,720 57 |
| 5067..... | 9 | Erie..... | Western New York & Pennsylvania Railroad Co..... | 21-A | 13,293 80 | ..... | 13,293 80 | 13,293 80 | ..... |
| 5238-5243, inc., 5237..... | 9 | Erie..... | Erie Railroad Co..... | 128 | 7,500 00 | ..... | 7,500 00 | ..... | ..... |
| 5267..... | 9 | Erie..... | Caroline J. Stickle..... | 99 | 800 00 | 102 00 | 902 00 | 8,402 00 | ..... |
| 1296..... | 9 | Erie..... | George W. Stearns..... | 60 | 80 00 | 19 45 | 99 45 | 49 45 | ..... |
| 1776..... | 9 | Erie..... | Charles H. Ruggles..... | 61 | 75 00 | 46 02 | 121 02 | 131 02 | ..... |
| 5387..... | 9 | Erie..... | Fredrick F. Schummers..... | 63-A | 3,600 00 | 199 81 | 3,799 81 | 3,799 81 | ..... |
| 4607..... | 9 | Erie..... | Harry D. Cunningham, et al..... | 103 | 1,900 00 | 481 51 | 2,381 51 | 1,381 41 | 27,047 48 |
| 2818..... | 10 | Erie..... | Emily D. Sprague, et al..... | 62 | 1,800 00 | 836 30 | 2,636 30 | ..... | ..... |
| 3729 and 4053..... | 10 | Erie..... | Ellis J. Peck..... | 62 | 2,250 00 | 1,099 83 | 3,349 83 | ..... | ..... |
| 3778..... | 10 | Erie..... | George H. Stickle..... | 62 | 50 00 | 24 61 | 74 61 | ..... | ..... |
| 4002..... | 10 | Erie..... | Lorenzo Burrows, as receiver of the estate of Roswell S. Burrows, in trust..... | 62 | 100 00 | 35 63 | 135 63 | ..... | ..... |
| 4806..... | 10 | Erie..... | John H. Howard..... | 62 | 250 00 | 81 66 | 331 66 | 6,538 13 | ..... |
| 5394..... | 11 | Erie..... | Jacob Klingenschmitt, et al..... | 10-A | 2,072 80 | 198 19 | 2,268 99 | ..... | ..... |
| 5443..... | 11 | Erie..... | Henry Smith, Jr..... | 10-A | 1,800 00 | 68 40 | 1,868 40 | 4,136 49 | ..... |
| | | | Total, Erie canal..... | | \$37,566 29 | \$10,643 62 | \$48,209 91 | \$48,209 91 | \$48,209 91 |
| 2460-A..... | 1 | Champlain..... | Edgar O. Howland..... | 72 | \$200 00 | ..... | \$200 00 | \$200 00 | \$200 00 |
| 5441..... | 2 | Champlain..... | Adelbert H. Snyder and John Dee..... | 1 | 3,000 00 | \$66 00 | 3,066 00 | ..... | ..... |
| 5442..... | 2 | Champlain..... | Robert Blackburn..... | 1 | 1,900 00 | 45 92 | 1,945 92 | 5,011 92 | ..... |
| | | | Total, Champlain canal..... | | \$5,100 00 | \$111 92 | \$5,211 92 | \$5,211 92 | \$5,211 92 |
| 2832..... | ..... | Oswego..... | Empire State Railroad Corporation..... | 37 | \$50 00 | \$27 90 | \$77 90 | ..... | ..... |
| 4666..... | ..... | Oswego..... | David B. Page..... | 37 | 800 00 | 211 33 | 1,011 33 | ..... | ..... |
| 5296..... | ..... | Oswego..... | Norman W. Adams..... | 37 | 125 00 | 15 41 | 140 41 | ..... | ..... |

| | | | | | | | |
|---------------------|--------|---|-----|-------------|------------|-------------|-------------|
| 5223 | Oswego | James J. Callen | 37 | 60 00 | 9 25 | 69 25 | |
| 5278 | Oswego | Palmer Van Sanford | 37 | 25 00 | 2 21 | 27 21 | \$1,326 10 |
| 4608 | Oswego | William H. Patterson and Edgar J. Penfield | 39 | 857 50 | 330 88 | 1,172 38 | |
| 4920 | Oswego | American Bonding Co., of Baltimore | 39 | 3,500 00 | 1,150 92 | 4,450 92 | |
| 4721 | Oswego | Earl S. Whipple | 39 | 301 83 | 105 20 | 397 13 | |
| 4921 | Oswego | Flora Wallace | 39 | 700 00 | 181 70 | 881 70 | |
| 5142 | Oswego | Anna May Betts | 39 | 142 50 | 35 01 | 168 41 | |
| 5160 | Oswego | T. C. Sweet | 39 | 3,750 00 | 284 38 | 4,034 38 | |
| 5339 | Oswego | Edwin F. Palmer, as trustee | 39 | 350 00 | 40 72 | 390 72 | |
| 5338 | Oswego | Clara L. Schroepfel, Anna L. Locke, Albert W. Schroepfel and Laura S. Hoffman | 39 | 1,000 00 | 104 83 | 1,104 83 | |
| 5418 | Oswego | Anna M. Fendergast | 39 | 1,215 00 | 38 48 | 1,253 48 | |
| 5435 | Oswego | Curran James Godfrey and Lena M. Godfrey | 39 | 867 24 | 36 85 | 904 09 | 14,948 04 |
| 2370 | Oswego | Elizabeth A. Walton, administratrix of Daniel F. Walton, deceased | 78 | 175 00 | 94 59 | 269 59 | |
| 5020 | Oswego | Hunter L. Betts, special guardian of Dean Frederick Betts, an infant | 100 | 200 00 | 50 57 | 250 57 | |
| Total, Oswego canal | | | | \$14,113 17 | \$2,681 13 | \$16,794 30 | \$16,794 30 |

**SUMMARY OF PAYMENTS OF AGREEMENTS OF SPECIAL EXAMINER
AND APPRAISER**

| CANAL | Sec-
tion | Amount | Interest | Total |
|--|--------------|--------------|-------------|--------------|
| Erie..... | 1 | \$1,511 70 | \$601 66 | \$2,113 36 |
| Erie..... | 2 | 6,030 76 | 903 10 | 6,933 86 |
| Erie..... | 3 | 3,136 04 | 197 16 | 3,333 20 |
| Erie..... | 4 | 2,424 53 | 1,215 60 | 3,640 13 |
| Erie..... | 5 | 2,484 35 | 668 16 | 3,152 51 |
| Erie..... | 6 | 21,348 51 | 724 31 | 22,072 82 |
| Erie..... | 7 | 523 50 | 27 86 | 551 36 |
| Erie..... | 8 | 15,615 20 | 3,105 37 | 18,720 57 |
| Erie..... | 9 | 26,198 80 | 848 68 | 27,047 48 |
| Erie..... | 10 | 4,450 00 | 2,088 13 | 6,538 13 |
| Erie..... | 11 | 3,872 90 | 263 59 | 4,136 49 |
| Total, Erie canal..... | | \$87,596 29 | \$10,643 62 | \$98,239 91 |
| Champlain..... | 1 | \$200 00 | ..... | \$200 00 |
| Champlain..... | 2 | 4,900 00 | \$111 92 | 5,011 92 |
| Total, Champlain canal..... | | \$5,100 00 | \$111 92 | \$5,211 92 |
| Oswego..... | | \$14,113 17 | \$2,681 13 | \$16,794 30 |
| Total, Erie, Champlain and Oswego
canals..... | | \$106,809 46 | \$13,436 67 | \$120,246 13 |

STATEMENT SHOWING EXPENDITURES THROUGH JUDGMENTS OF THE COURT OF CLAIMS FOR LANDS APPROPRIATED,
AND DAMAGES THERETO, FOR THE CONSTRUCTION OF THE ERIE, CHAMPLAIN AND OSWEGO CANALS, UNDER
CHAPTER 147, LAWS OF 1903, FOR THE FISCAL YEAR ENDED JUNE 30, 1920

| Map numbers | Section | Canal | NAME | Contract number | Amount | Interest | Total | Total contract | Total section |
|-------------|---------|-------|--|-----------------|----------|----------|----------|----------------|---------------|
| Temporary | 21 | Erie | Anna DeMarco | 14 | \$437 75 | \$0 73 | \$438 48 | | |
| Temporary | 21 | Erie | Luigi Mazzuca | 14 | 725 20 | 1 20 | 726 40 | | |
| Temporary | 21 | Erie | Michael Matwievic and Mary Matwievic | 14 | 135 00 | 1 20 | 136 20 | | |
| Temporary | 21 | Erie | Wladyslaw Dobierz | 14 | 43 75 | 07 17 | 43 82 | | |
| Temporary | 21 | Erie | Dominick Wicinski | 14 | 110 00 | 17 00 | 110 17 | | |
| Temporary | 21 | Erie | Woclaw Olszewski and Olesin Olszewski | 14 | 60 00 | 09 00 | 60 09 | | |
| Temporary | 21 | Erie | Joseph Prysmun | 14 | 95 00 | 14 14 | 95 14 | | |
| Temporary | 21 | Erie | Matyca Duaynski and Maryanna Duaynski | 14 | 115 00 | 17 17 | 115 17 | | |
| Temporary | 21 | Erie | Stanislaus Cieszynski and Ewa Cieszynski | 14 | 130 00 | 18 18 | 130 18 | | |
| Temporary | 21 | Erie | Thomas Vutino | 14 | 559 80 | 84 84 | 560 64 | | |
| Temporary | 21 | Erie | Edward S. Vrooman | 14 | 471 97 | 70 70 | 472 67 | | |
| Temporary | 21 | Erie | William Kaebunek | 14 | 25 50 | 04 04 | 25 54 | | |
| Temporary | 21 | Erie | Joseph Gorszynski | 14 | 175 00 | 26 26 | 175 26 | | |
| Temporary | 21 | Erie | Adam Doranowski | 14 | 116 50 | 17 17 | 116 67 | | |
| Temporary | 21 | Erie | John Nickarz | 14 | 13 00 | 02 02 | 13 02 | | |
| Temporary | 21 | Erie | Stephan Krusena and Marianna Krusena | 14 | 120 00 | 18 18 | 120 18 | | |
| Temporary | 21 | Erie | John Nawiczek | 14 | 14 35 | 03 03 | 14 38 | | |
| Temporary | 21 | Erie | Frank Lankiewicz | 14 | 170 00 | 31 31 | 170 31 | | |
| Temporary | 21 | Erie | Brigio Dell'Orfano | 14 | 225 00 | 82 82 | 225 82 | | |
| Temporary | 21 | Erie | Reisell R. Bayer, et al. | 14 | 250 00 | 29 29 | 250 29 | | |
| Temporary | 21 | Erie | Ellas McCullough | 14 | 250 00 | 29 29 | 250 29 | | |
| Temporary | 21 | Erie | Henry Whitmyre | 14 | 200 00 | 23 23 | 200 23 | | |
| Temporary | 21 | Erie | Joseph Pepper | 14 | 500 00 | 58 58 | 500 58 | | |
| Temporary | 21 | Erie | Henry Dorasky, individually and as agent for | 14 | 75 00 | 09 09 | 75 09 | | |
| Temporary | 21 | Erie | Max Dorasky | 14 | 1 250 00 | 46 46 | 1 250 46 | | |
| Temporary | 21 | Erie | Nathan Herschkowitz | 14 | 300 00 | 35 35 | 300 35 | | |
| Temporary | 21 | Erie | Clara Hershtman | 14 | 80 00 | 09 09 | 80 09 | | |
| Temporary | 21 | Erie | Sophia Peles | 14 | 100 00 | 12 12 | 100 12 | | |
| Temporary | 21 | Erie | Moses Maki | 14 | 80 00 | 12 12 | 80 12 | | |
| Temporary | 21 | Erie | Timothy E. Slack | 14 | 354 00 | 41 41 | 354 41 | | |
| Temporary | 21 | Erie | William J. Langed and Minnie Langford | 14 | 640 00 | 75 75 | 640 75 | | |
| Temporary | 21 | Erie | Mina Newling Kaemer | 14 | 433 00 | 50 50 | 433 50 | | |

STATEMENT SHOWING EXPENDITURES THROUGH JUDGMENTS OF COURT OF CLAIMS — (Continued)

| Map numbers | Section | Canal | NAME | Contract number | Amount | Interest | Total | Total contract | Total section |
|-------------|---------|-------|--|-----------------|----------|----------|----------|----------------|---------------|
| Temporary | 2 | Erie | Charles Kets and Emma Kets | 14 | \$323 00 | \$0 38 | \$323 38 | | |
| Temporary | 2 | Erie | J. Irvin Salisbury | 14 | 323 00 | 38 | 323 38 | | |
| Temporary | 2 | Erie | Mary Poterik | 14 | 40 00 | 08 | 40 08 | | |
| Temporary | 2 | Erie | Mary Cherry | 14 | 60 00 | 12 | 60 12 | | |
| Temporary | 2 | Erie | John Myers | 14 | 190 32 | 38 | 190 32 | | |
| Temporary | 2 | Erie | Sadie Mc Auliffe | 14 | 223 00 | 45 | 223 45 | | |
| Temporary | 2 | Erie | Lena Porsch | 14 | 41 00 | 10 | 41 10 | | |
| Temporary | 2 | Erie | Marion Mithlewis and Anna Mikielewicz | 14 | 103 00 | 35 | 103 35 | | |
| Temporary | 2 | Erie | Schenectady Boat Club | 14 | 400 00 | 1 | 401 32 | | |
| Temporary | 2 | Erie | Josephine M. Clute | 14 | 100 00 | 17 | 100 17 | | |
| Temporary | 2 | Erie | Edward Rice | 14 | 75 00 | 13 | 75 13 | | |
| Temporary | 2 | Erie | Louise Brandt | 14 | 60 00 | 13 | 60 13 | | |
| Temporary | 2 | Erie | Annie Keeler and Charles Keeler | 14 | 173 00 | 44 | 173 44 | | |
| Temporary | 2 | Erie | John Blauvelt and Alice Blauvelt | 14 | 230 00 | 63 | 230 63 | | |
| Temporary | 2 | Erie | Michael A. Byrnes | 14 | 125 00 | 31 | 125 31 | | |
| Temporary | 2 | Erie | Edward McAuliffe | 14 | 125 00 | 41 | 125 41 | | |
| Temporary | 2 | Erie | Kate A. Porsch | 14 | 180 00 | 68 | 180 68 | | |
| Temporary | 2 | Erie | Henry L. Shannon | 14 | 360 00 | 75 | 360 75 | | |
| Temporary | 2 | Erie | Caroline Giles | 14 | 300 00 | 15 | 300 15 | | |
| Temporary | 2 | Erie | Catherine Pawlacyk | 14 | 75 00 | 19 | 75 19 | | |
| Temporary | 2 | Erie | Christine Schult | 14 | 80 00 | 20 | 80 20 | | |
| Temporary | 2 | Erie | Annie Keeler and Charles Keeler | 14 | 150 00 | 38 | 150 38 | | |
| Temporary | 2 | Erie | Delavan Scott and Rachel Scott | 14 | 225 00 | 56 | 225 56 | | |
| Temporary | 2 | Erie | Matilda Rogers | 14 | 187 60 | 47 | 187 97 | | |
| Temporary | 2 | Erie | George F. Rolfe | 14 | 140 00 | 35 | 140 35 | | |
| Temporary | 2 | Erie | Frances Luke | 14 | 110 00 | 28 | 110 28 | | |
| Temporary | 2 | Erie | Harriet L. Proper | 14 | 252 00 | 63 | 252 63 | | |
| Temporary | 2 | Erie | Carrie Swart, as Executrix | 14 | 200 00 | 50 | 200 50 | | |
| Temporary | 2 | Erie | Carrie Swart, as Executrix | 14 | 150 00 | 38 | 150 38 | | |
| Temporary | 2 | Erie | William F. Gerding and Maggie M. Gerding | 14 | 125 00 | 31 | 125 31 | | |
| Temporary | 2 | Erie | William F. Gerding and Maggie M. Gerding | 14 | 125 00 | 31 | 125 31 | | |
| Temporary | 2 | Erie | Irene Crigiano | 14 | 75 00 | 19 | 75 19 | | |
| Temporary | 2 | Erie | Constantiano Neuman | 14 | 75 00 | 19 | 75 19 | | |
| Temporary | 2 | Erie | Charles H. Hornby and Deborah C. Hornby | 14 | 147 88 | 34 | 147 72 | | |
| Temporary | 2 | Erie | Deborah C. Hornby | 14 | 270 00 | 63 | 271 23 | | |
| Temporary | 2 | Erie | Charles Mahoney & Co | 14 | 784 75 | 1 31 | 786 09 | | |

| | | | | | | | | | |
|-----------|------|---|--|----|----------|----|----------|----------|-------|
| Temporary | Erie | 2 | Martin Rogusinski | 14 | 250 00 | 42 | 250 42 | 250 42 | ..... |
| Temporary | Erie | 2 | John Prondinski | 14 | 60 00 | 10 | 60 10 | 60 10 | ..... |
| Temporary | Erie | 2 | Fredericka Schlausker | 14 | 70 00 | 12 | 70 12 | 70 12 | ..... |
| Temporary | Erie | 2 | Jeremiah Schermerhorn | 14 | 100 00 | 15 | 100 15 | 100 15 | ..... |
| Temporary | Erie | 2 | Matt Poerssch, Jacob Poerssch, Barbara Reuss
and Schilla Lemuel | 14 | 150 00 | 22 | 150 22 | 150 22 | |
| Temporary | Erie | 2 | Sadie Krajinik | 14 | 140 00 | 21 | 140 21 | 140 21 | ..... |
| Temporary | Erie | 2 | Catherine Niman | 14 | 210 00 | 32 | 210 32 | 210 32 | ..... |
| Temporary | Erie | 2 | Maria Donofrio | 14 | 150 00 | 22 | 150 22 | 150 22 | ..... |
| Temporary | Erie | 2 | Joseph Mower | 14 | 160 00 | 24 | 160 24 | 160 24 | ..... |
| Temporary | Erie | 2 | Herman Gerth | 14 | 110 00 | 16 | 110 16 | 110 16 | ..... |
| Temporary | Erie | 2 | Kate Katz and Charles Katz | 14 | 280 00 | 42 | 280 42 | 280 42 | ..... |
| Temporary | Erie | 2 | Bertha E. Dixon | 14 | 275 00 | 41 | 275 41 | 275 41 | ..... |
| Temporary | Erie | 2 | William H. Munker | 14 | 200 00 | 30 | 200 30 | 200 30 | ..... |
| Temporary | Erie | 2 | Charles Zadoorian | 14 | 185 00 | 22 | 185 22 | 185 22 | ..... |
| Temporary | Erie | 2 | Ruby Auchtenpaugh and Fred Auchtenpaugh | 14 | 310 00 | 67 | 310 67 | 310 67 | ..... |
| Temporary | Erie | 2 | Lucy VanDerpool, as executrix of Jeremiah F.
VanDerpool | 14 | 5,927 00 | 16 | 5,943 80 | 5,943 80 | |
| Temporary | Erie | 2 | Anna Sinclair, individually and as agent for
Anna Daley | 14 | 160 00 | 27 | 160 27 | 160 27 | |
| Temporary | Erie | 2 | Curtis F. Sollohub | 14 | 235 00 | 40 | 235 40 | 235 40 | ..... |
| Temporary | Erie | 2 | Mary Kraft | 14 | 175 00 | 30 | 175 30 | 175 30 | ..... |
| Temporary | Erie | 2 | Kaas Perretta | 14 | 100 00 | 17 | 100 17 | 100 17 | ..... |
| Temporary | Erie | 2 | Fredericka W. Kelle | 14 | 187 00 | 15 | 187 15 | 187 15 | ..... |
| Temporary | Erie | 2 | Stephen Maslanka | 14 | 50 00 | 09 | 50 09 | 50 09 | ..... |
| Temporary | Erie | 2 | Henry C. Lange | 14 | 298 00 | 55 | 298 55 | 298 55 | ..... |
| Temporary | Erie | 2 | Thomas Maslanka | 14 | 170 00 | 31 | 170 31 | 170 31 | ..... |
| Temporary | Erie | 2 | August F. Schwelker | 14 | 225 00 | 40 | 225 40 | 225 40 | ..... |
| Temporary | Erie | 2 | Charles H. Sleeter | 14 | 80 00 | 15 | 80 15 | 80 15 | ..... |
| Temporary | Erie | 2 | Fred W. Horstman | 14 | 225 00 | 40 | 225 40 | 225 40 | ..... |
| Temporary | Erie | 2 | August Lange | 14 | 140 00 | 26 | 140 26 | 140 26 | ..... |
| Temporary | Erie | 2 | Christian F. Braundhorst | 14 | 175 00 | 38 | 175 38 | 175 38 | ..... |
| Temporary | Erie | 2 | Lucy H. Steeger | 14 | 190 00 | 63 | 190 63 | 190 63 | ..... |
| Temporary | Erie | 2 | Adolf R. and Elizabeth M. Proper | 14 | 350 00 | 10 | 351 10 | 351 10 | ..... |
| Temporary | Erie | 2 | Minnie N. Kraemer | 14 | 615 00 | 29 | 615 29 | 615 29 | ..... |
| Temporary | Erie | 2 | Benjamin Olank | 14 | 250 00 | 63 | 250 63 | 250 63 | ..... |
| Temporary | Erie | 2 | J. Irvin Salisbury | 14 | 315 00 | 79 | 315 79 | 315 79 | ..... |
| Temporary | Erie | 2 | Augustus P. and Margaret E. Brown | 14 | 260 00 | 65 | 260 65 | 260 65 | ..... |
| Temporary | Erie | 2 | Edward T. and Margaret E. Cleary | 14 | 225 00 | 56 | 225 56 | 225 56 | ..... |
| Temporary | Erie | 2 | William J. and Maryann Kroshinsky | 14 | 225 00 | 56 | 225 56 | 225 56 | ..... |
| Temporary | Erie | 2 | William and Minnie W. Langford | 14 | 250 00 | 63 | 250 63 | 250 63 | ..... |
| Temporary | Erie | 2 | Timothy Stack and Kate Smith | 14 | 325 00 | 87 | 325 87 | 325 87 | ..... |
| Temporary | Erie | 2 | George C. and Kate Smith | 14 | 275 00 | 69 | 275 69 | 275 69 | ..... |
| Temporary | Erie | 2 | William J. and Minnie W. Langford | 14 | 350 00 | 88 | 350 88 | 350 88 | ..... |
| Temporary | Erie | 2 | Dorcas Lee | 14 | 340 00 | 88 | 340 88 | 340 88 | ..... |
| Temporary | Erie | 2 | William F. Koch | 14 | 210 00 | 53 | 210 53 | 210 53 | ..... |
| Temporary | Erie | 2 | James J. O'Connell | 14 | 330 00 | 83 | 330 83 | 330 83 | ..... |

STATEMENT SHOWING EXPENDITURES THROUGH JUDGMENTS OF COURT OF CLAIMS — (Continued)

| Map numbers | Section | Canal | NAME | Contract number | Amount | Interest | Total | Total contract | Total section |
|----------------|---------|-----------|--|-----------------|-----------|----------|-----------|----------------|---------------|
| Temporary..... | 2 | Erie..... | Cyromont and Florentina Kawalaky..... | 14 | \$210 00 | \$0 53 | \$210 53 |  | ..... |
| Temporary..... | 3 | Erie..... | Joseph Feeling as trustee..... | 14 | 200 00 | 47 | 200 47 |  | ..... |
| Temporary..... | 2 | Erie..... | Morris Myers and Edgar J. Smith as trustees..... | 14 | 300 00 | 70 | 300 70 |  | ..... |
| Temporary..... | 2 | Erie..... | William S. Vandenberg..... | 14 | 300 00 | 70 | 300 70 |  | ..... |
| Temporary..... | 2 | Erie..... | James P. Jones..... | 14 | 40 00 | 09 | 40 09 |  | ..... |
| Temporary..... | 2 | Erie..... | James P. Spillacy as trustee..... | 14 | 325 00 | 76 | 325 76 |  | ..... |
| Temporary..... | 2 | Erie..... | Edward Ellis..... | 14 | 29 50 | 07 | 29 57 |  | ..... |
| Temporary..... | 2 | Erie..... | Michael Brown and Edward McCormack..... | 14 | 225 00 | 82 | 225 82 |  | ..... |
| Temporary..... | 2 | Erie..... | Horace W. Sullivan..... | 14 | 75 00 | 18 | 75 18 |  | ..... |
| Temporary..... | 2 | Erie..... | Harvey and Emma Leamon..... | 14 | 200 00 | 47 | 200 47 |  | ..... |
| Temporary..... | 2 | Erie..... | Antonio Mastromanni..... | 14 | 800 00 | 80 | 800 80 |  | ..... |
| Temporary..... | 2 | Erie..... | American Locomotive Co..... | 14 | 685 31 | 1 37 | 686 68 |  | ..... |
| Temporary..... | 2 | Erie..... | Julia Friedman, as administratrix, etc., of Jennie Katz, deceased..... | 14 | 22,202 27 | 81 40 | 22,283 67 |  | ..... |
| Temporary..... | 2 | Erie..... | Conrad Martin..... | 14 | 350 00 | 1 10 | 351 10 |  | ..... |
| Temporary..... | 2 | Erie..... | Charles Guiz..... | 14 | 275 00 | 65 | 275 65 |  | ..... |
| Temporary..... | 2 | Erie..... | Edward F. McAuliffe..... | 14 | 435 00 | 94 | 435 94 |  | ..... |
| Temporary..... | 2 | Erie..... | Giacomo Cognetta..... | 14 | 600 00 | 1 50 | 601 50 |  | ..... |
| Temporary..... | 2 | Erie..... | Alfred Brandt..... | 14 | 410 50 | 1 50 | 412 00 |  | ..... |
| Temporary..... | 2 | Erie..... | Bernhard Tang..... | 14 | 150 00 | 15 | 150 15 |  | ..... |
| Temporary..... | 2 | Erie..... | John Ulrich..... | 14 | 520 69 | 69 | 520 69 |  | ..... |
| Temporary..... | 2 | Erie..... | Schenectady Railway Co..... | 14 | 118 30 | 20 | 118 50 | \$58,857 17 | ..... |
| 5172..... | 2 | Erie..... | John W. Haselo, Frederick W. Haselo and Frank E. Haselo, deceased..... | 20-D | 51,497 00 | 1,218 76 | 52,715 76 |  | ..... |
| 5279..... | 2 | Erie..... | John W. Haselo, Frederick W. Haselo and Frank E. Haselo, deceased..... | 20-D | 9,438 32 | 618 20 | 10,056 52 |  | ..... |
| 4990..... | 2 | Erie..... | Edward L. Haight and Jennie E. Murray, deceased..... | Certs 109 | 97 20 | 3 14 | 100 44 | 62,872 72 | ..... |
| 517..... | 3 | Erie..... | George V. Place, as sole administrator of Daniel N. Place, deceased..... | 17 | 2,289 60 | 3 05 | 2,292 65 | 2,292 65 | \$124,022 54 |
| 4112..... | 3 | Erie..... | Ralph J. and Frank Sterling..... | 20-B | 867 67 | 3 18 | 870 85 | 870 85 | ..... |
| 5236..... | 4 | Erie..... | Rachel Paschke..... | 29-A | 145 52 | 56 | 146 08 | 146 08 | 1,016 93 |
| Temporary..... | 4 | Erie..... | Fred N. and Lottie M. Dowland..... | 30 | 889 12 | 2 60 | 891 72 | 891 72 | ..... |
| Temporary..... | 4 | Erie..... | James Drummond, Jr., and Minnie E. Drummond..... | 44 | 751 88 | 1 88 | 751 88 | 751 88 | 1,643 06 |
| Temporary..... | 3 | Erie..... | | 44 | 175 00 | 58 | 175 58 |  | ..... |
| | | | | | 200 00 | 00 | 200 00 |  | ..... |

| | | | | | | | | | |
|-----------|------|---|---|---------|-----------|--------|-----------|-----------|----------|
| Temporary | Erie | 5 | Irving J. and Nina Edel | 44 | 225 00 | 75 | 225 75 | | |
| Temporary | Erie | 5 | M. Oliva Traxell Merrill and Caroline Eades | 44 | 200 00 | 66 | 200 66 | | |
| Temporary | Erie | 5 | Foster H. Joslin | 44 | 125 00 | 42 | 125 42 | | |
| Temporary | Erie | 5 | Fred J. and Maud Noakes | 44 | 300 00 | 1 00 | 301 00 | 1,220 07 | |
| Temporary | Erie | 5 | Town of Russia, Herkimer Co. | 50 | 3,303 00 | 11 01 | 3,314 01 | | |
| Temporary | Erie | 5 | Fred G. Morrison | 50 | 977 13 | 3 26 | 980 39 | | |
| Temporary | Erie | 5 | Conzelina Bochino | 50 | 186 26 | 3 65 | 189 91 | 4,451 31 | 5,710 38 |
| Temporary | Erie | 6 | Quaker K. and Mary E. Slade | 12 | 500 00 | 34 08 | 534 08 | | |
| Temporary | Erie | 6 | Alma Mills | 45 | 40 00 | 10 | 50 00 | | |
| Temporary | Erie | 6 | Empire State Railroad Corporation | 45 | 25 00 | 07 | 25 07 | | |
| Temporary | Erie | 7 | Jonathan C. Harnden | 42 | 8 55 46 | 140 40 | 965 86 | 1,061 03 | 1,595 11 |
| Temporary | Erie | 8 | West Shore Railroad Co., owner and lessor and The New York Central Railroad Co., lessee. | 12 | 40 00 | 14 | 40 14 | 40 14 | 40 14 |
| 3368-A | Erie | 8 | Niagara Lockport and Ontario Power Co., DeWitt Pochball, Luette Parshall and Anna H. Woodward | 47 | 758 32 | 2 36 | 760 68 | | |
| 3369-A | Erie | 8 | Fredrick Weiner | 47 | 2,567 01 | 7 70 | 2,574 71 | 3,365 39 | |
| Temporary | Erie | 8 | Conrad Lindstrom | 48 | 106 75 | 35 | 107 10 | | |
| Temporary | Erie | 8 | Peter Kweit | 78 | 75 21 | 21 | 75 21 | | |
| Temporary | Erie | 8 | Edward Aulin | 78 | 140 00 | 28 | 140 28 | | |
| Temporary | Erie | 8 | Fredrick Weiner | 78 | 190 00 | 38 | 190 38 | | |
| Temporary | Erie | 8 | Joseph M. Bauman | 78 | 45 00 | 10 | 45 10 | | |
| Temporary | Erie | 8 | Clyde Fischer | 78 | 45 00 | 10 | 45 10 | 496 07 | |
| Temporary | Erie | 8 | Albert D. Collier | 84 | 500 00 | 2 00 | 502 00 | | |
| Temporary | Erie | 8 | William Burrie | 84 | 500 00 | 2 00 | 502 00 | | |
| Temporary | Erie | 8 | Ann Costello, otherwise known as Anna Costello | 84 | 1,000 00 | 4 40 | 1,004 40 | | |
| Temporary | Erie | 8 | Fred C. Shaw | 84 | 1,000 00 | 4 00 | 1,004 00 | | |
| Temporary | Erie | 8 | Edward J. Richardson | 84 | 1,260 00 | 4 17 | 1,264 17 | | |
| Temporary | Erie | 8 | John M. Steele, Savings Bank of Utica, assignee | 84 | 500 00 | 1 17 | 501 17 | 4,867 74 | 5,876 38 |
| Temporary | Erie | 8 | Ida J. Wilcott | 164 | 110 00 | 08 | 110 08 | 40 08 | |
| Temporary | Erie | 8 | Independent Brewing Co. | 6 | 110 00 | 37 | 110 37 | 110 37 | |
| 5267 | Erie | 9 | James Fagan | 41 & 63 | 30,070 71 | 380 89 | 30,451 60 | 30,451 60 | |
| 5311 | Erie | 9 | James Fagan and Sons | 59 | 2,315 67 | 7 72 | 2,323 39 | | |
| Temporary | Erie | 9 | James Fagan | 59 | 1,153 83 | 5 00 | 1,158 83 | 3,432 22 | |
| Temporary | Erie | 9 | V. E. Waterbury and Dora E. Hiler | 60 | 987 60 | 2 63 | 990 23 | 980 53 | |
| Temporary | Erie | 9 | Michael Freon | 61 | 65 00 | 23 | 65 23 | | |
| Temporary | Erie | 9 | Frank Rosebrough | 61 | 50 00 | 15 | 50 15 | | |
| Temporary | Erie | 9 | James Fagan as administrator of John Fagan, deceased | 61 | 110 00 | 17 | 110 17 | | |
| Temporary | Erie | 9 | Dean G. Crippen and Ephraim C. Crippen | 61 | 95 00 | 16 | 95 16 | | |
| Temporary | Erie | 9 | Richard Deedy, Elizabeth Deedy and Richard Deedy as administrator of John Deedy, deceased | 61 | 85 00 | 11 | 85 11 | | |
| Temporary | Erie | 9 | Henry Harrison Co. | 61 | 85 00 | 11 | 85 11 | | |
| 1524-A | Erie | 9 | | 61 | 614 23 | 1 02 | 615 25 | 615 25 | |
| | Erie | 9 | | 61 | 288 30 | 96 | 289 26 | 289 26 | |

STATEMENT SHOWING EXPENDITURES THROUGH JUDGMENTS OF COURT OF CLAIMS — (Continued)

| Map numbers | Section | Canal | NAME | Contract number | Amount | Interest | Total | Total contract | Total section |
|---------------|---------|-------|--|-----------------|----------|----------|----------|----------------|---------------|
| 1652 | 9 | Erie | Mary E. Johnson as exrx., of Jane Pridmore, deceased | 61 | \$82 46 | \$0 25 | \$82 71 | \$1,438 18 | |
| 2720 | 9 | Erie | Central Bank of Rochester, assignee of Enos and Samuel H. Saltzer | 63 | 1,525 17 | 5 59 | 1,530 76 | | |
| 2642 | 9 | Erie | Jessie S. Parkhurst, S. Rich, as assignee of Cora M. Sutherland, Mary G. True, Anna E. Agate and Sherman E. Caruthan | 63 | 2,811 30 | 10 77 | 2,822 07 | 4,352 83 | |
| Temporary | 9 | Erie | Fannie E. T. Day, Alice Day Gardner, George H. Day, Elizabeth Day Jaumb, Fannie Day Taggart, and W. Hans Day | 106 | 1,200 00 | 4 40 | 1,204 40 | | |
| Temporary | 9 | Erie | Morton Minnot, Dean G. Cruppen and Arthur Tolly | 106 | 1,200 00 | 4 60 | 1,204 60 | | |
| Temporary | 9 | Erie | Dora W. Hiller and James E. Waterbury | 108 | 1,250 00 | 4 79 | 1,254 79 | | |
| Temporary | 9 | Erie | Alexander Fishbaugh | 108 | 1,525 00 | 2 02 | 1,527 02 | | |
| Temporary | 9 | Erie | William J. and Jane Benson | 108 | 3 50 | 2 34 | 351 34 | | |
| Temporary | 9 | Erie | Jane L. Brown | 108 | 750 00 | 2 63 | 752 63 | | |
| Temporary | 9 | Erie | Nellie M. Value | 108 | 1,050 00 | 3 68 | 1,053 68 | 6,348 46 | |
| 3342 | 9 | Erie | Oscar W. Dauchy | 163 | 3,378 50 | 8 74 | 3,387 24 | 3,384 94 | \$50,559 13 |
| Temporary | 10 | Erie | John P. Chapman | 9 | 75 00 | 27 | 75 27 | | |
| Temporary | 10 | Erie | George C. Webb | 9 | 400 00 | 1 40 | 401 40 | 551 94 | |
| Temporary | 10 | Erie | Anderson Crowlorth as administrator of the estate of Michael Rogan, deceased, Farmers and Mechanics Savings Bank of Lockport, assignee | 40 | 8,334 20 | 256 96 | 8,591 16 | | |
| 1991 and 3461 | 10 | Erie | Annie L. Hannon et al, Farmers and Mechanics Savings Bank of Lockport, assignee | 40 | 789 83 | 23 43 | 783 26 | 9,374 42 | |
| Temporary | 10 | Erie | Ray V. Husbrouck | 60 | 66 50 | 08 | 66 58 | 56 58 | |
| Temporary | 10 | Erie | Antonio Croce | 62 | 110 00 | 44 | 110 44 | | |
| Temporary | 10 | Erie | Clark Bros. Quarry Co. | 62 | 1,047 30 | 2 44 | 1,049 74 | | |
| Temporary | 10 | Erie | Domenica Clara | 62 | 185 00 | 42 | 185 42 | | |
| Temporary | 10 | Erie | Domenica Clara | 62 | 90 21 | 21 | 90 21 | | |
| Temporary | 10 | Erie | Clark Bros. Quarry Co. | 62 | 1,775 50 | 5 03 | 1,779 53 | | |
| Temporary | 10 | Erie | Maynard A. Jaqueth | 62 | 50 00 | 36 | 50 36 | | |
| 3599 | 10 | Erie | Antonio Croce | 62 | 1,521 67 | 4 82 | 1,526 49 | | |

| | | | | | | | |
|-----------------|------|--|-------|--------------|----------|------------|------------|
| 3439 | Erie | Guiseppa Piedimonte | 62 | 2,967 13 | 4 94 | 2,972 07 | ..... |
| 3494 | Erie | Peppinella Maria Belmont, individually and as executrix of Michael Belmont, deceased, Minnie DeMarco, individually and as administratrix of Pasquale DeMarco, deceased | 62 | 1,135 00 | 8 32 | 1,143 32 | ..... |
| 3494 | Erie | Maynard A. Jaqueth | 62 | 9,780 47 | 30 97 | 9,811 44 | ..... |
| 3503 | Erie | John Czaczkowski | 62 | (bal.) 72 64 | ..... | 72 64 | ..... |
| 3588 | Erie | Albert H. & Pauline L. Ford | 62 | 1,677 65 | 6 71 | 1,684 36 | ..... |
| 3583 | Erie | Frederick N. Hinds and Jane Hinds | 62 | 7,030 06 | 17 58 | 7,047 64 | ..... |
| 4296 | Erie | Vincent Stone Co., Savings Bank of Utica, assignee | 62 | 15,006 89 | 637 80 | 15,644 69 | ..... |
| 3392 | Erie | John I. Cleary as executor of Patrick Cleary, deceased, The Savings Bank of Utica, assignee | 62 | 11,053 75 | 469 78 | 11,523 53 | ..... |
| 4599 | Erie | ..... | ..... | ..... | ..... | ..... | ..... |
| 3586 | Erie | ..... | ..... | ..... | ..... | ..... | ..... |
| 3162 | Erie | Orleans Co. Quarry Co., Emigrant Industrial Savings Bank, New York, assignee | 62 | 106,222 67 | 4,178 10 | 110,400 77 | 165,190 33 |
| 3626-A | Erie | John and Malvina Fogel | 64 | 315 00 | 63 | 315 63 | ..... |
| 3955 | Erie | Burt Jackson | 64 | 325 00 | 1 14 | 326 14 | ..... |
| 3954 | Erie | ..... | ..... | ..... | ..... | ..... | ..... |
| 1036 | Erie | John LeValley | 64 | 6,330 49 | 14 77 | 6,345 26 | ..... |
| 1417-B and 4519 | Erie | Charles G. Sybrandt | 64 | 3,562 74 | 511 85 | 4,074 59 | 11,061 62 |
| 1951 | Erie | Orleans Co. Quarry Co., Emigrant Industrial Savings Bank, New York, assignee | 64 | 15,209 78 | 545 02 | 15,754 80 | ..... |
| 4560 and 4744 | Erie | Charles H. and Ida C. Chase, The Savings Bank of Utica, assignee | 65 | 6,148 50 | 249 04 | 6,397 54 | ..... |
| 4487 | Erie | Mary Hanlon, The Savings Bank of Utica, assignee | 65 | 24,005 70 | 972 24 | 24,977 94 | 47,130 28 |
| 4470 | Erie | Sarah J. Webb | 66 | 100 00 | 18 | 100 18 | ..... |
| Temporary | Erie | Susan Mullaney, Margaret A. Mullaney and James P. Mullaney | 67 | 952 00 | 3 33 | 955 33 | ..... |
| Temporary | Erie | William M. Foltz as administrator, etc., of Anna L. Foltz, deceased | 67 | 952 00 | 1 75 | 953 75 | ..... |
| Temporary | Erie | Eliza W. Ashley | 67 | 2,713 67 | 55 76 | 2,769 43 | ..... |
| Temporary | Erie | Margaret Ginty | 67 | 4,748 92 | 87 80 | 4,846 52 | 9,525 03 |
| Temporary | Erie | ..... | ..... | ..... | ..... | ..... | 242,990 38 |

STATEMENT SHOWING EXPENDITURES THROUGH JUDGMENTS OF COURT OF CLAIMS — (Continued)

| Map numbers | Section | Canal | NAME | Contract number | Amount | Interest | Total | Total contract | Total section |
|----------------|---------|----------------|---|-----------------|--------------|-------------|--------------|----------------|---------------|
| H-144..... | 11 | Erie..... | John W. Landell..... | 19 | \$386 64 | \$1 29 | \$387 93 | ..... | ..... |
| 3565..... | 11 | Erie..... | George C. Rosow; Charles S. Orton as executor of Charles F. Rosow, deceased..... | 19 | 1,715 53 | 5 72 | 1,721 25 | \$2,109 18 | \$2,109 18 |
| | | | Total Erie Canal..... | | \$427,773 02 | \$10,790 81 | \$438,563 83 | \$438,563 83 | \$438,563 83 |
| Temporary..... | 1 | Champlain..... | Augustus G. and Loretta Barrie..... | 73 | \$502 00 | \$1 67 | \$503 67 | \$503 67 | \$503 67 |
| Temporary..... | 2 | Champlain..... | Sophia R. Burnham..... | 1-A | 50 00 | 14 | 50 14 | ..... | ..... |
| Temporary..... | 2 | Champlain..... | A. Heywood Cary..... | 1-A | 60 00 | 11 | 60 11 | ..... | ..... |
| Temporary..... | 2 | Champlain..... | Jacob Rosow..... | 1-A | 50 00 | 06 | 50 06 | ..... | ..... |
| Temporary..... | 2 | Champlain..... | Rufus A. Henderson..... | 1-A | 650 00 | 1 19 | 651 19 | ..... | ..... |
| Temporary..... | 2 | Champlain..... | Seymour E. Stewart..... | 1-A | 800 00 | 1 47 | 801 47 | 1,613 00 | ..... |
| Temporary..... | 2 | Champlain..... | William J. Stewart..... | 56 | 190 00 | 48 | 190 48 | ..... | ..... |
| Temporary..... | 2 | Champlain..... | Village of Hudson Falls..... | 56 | 6,497 31 | 50 89 | 6,548 20 | 6,738 68 | 8,351 68 |
| Temporary..... | 3 | Champlain..... | James Breason and Jessie B. Rogers..... | 25 | 600 00 | 2 30 | 602 30 | ..... | ..... |
| Temporary..... | 3 | Champlain..... | Jessie B. Rogers, Thomas LaPan and Fred LaPan..... | 25 | 1,560 00 | 5 98 | 1,565 98 | ..... | ..... |
| Temporary..... | 3 | Champlain..... | John Guerin..... | 25 | 660 00 | 1 54 | 661 54 | ..... | ..... |
| Temporary..... | 3 | Champlain..... | Charles E. Minton..... | 25 | 225 00 | 30 | 225 30 | ..... | ..... |
| Temporary..... | 3 | Champlain..... | George Henry..... | 25 | 500 00 | 58 | 500 58 | ..... | ..... |
| Temporary..... | 3 | Champlain..... | John Hannahan..... | 25 | 150 00 | 18 | 150 18 | ..... | ..... |
| Temporary..... | 3 | Champlain..... | Robert Davison as administrator of Robert Parker, deceased..... | 25 | 450 00 | 52 | 450 52 | ..... | ..... |
| Temporary..... | 3 | Champlain..... | James C. Daley..... | 25 | 500 00 | 58 | 500 58 | 4,656 98 | 4,656 98 |
| | | | Total Champlain Canal..... | | \$13,444 31 | \$68 02 | \$13,512 33 | \$13,512 33 | \$13,512 33 |
| 324..... | | Oswego..... | Frederick A. Gage..... | 10 | \$1,163 06 | \$3 88 | \$1,166 94 | ..... | ..... |
| 301..... | | Oswego..... | Frederick A. Gage, Bert W. Bennett and William G. Bennett..... | 10 | 1,362 75 | 5 45 | 1,368 20 | \$2,535 14 | ..... |
| H-102..... | | Oswego..... | Empire State Railroad Corporation..... | 37 | 161 98 | 57 | 162 55 | 162 55 | ..... |
| H-168..... | | Oswego..... | Clara L. Schroepfel, Annie L. Locke, Albert W. Schroepfel and Laura S. Hoffman..... | 39 | 217 95 | 47 | 218 42 | 218 42 | ..... |
| Temporary..... | | Oswego..... | Joseph P. and Mary H. Kennedy..... | 40 | 300 00 | 40 | 300 40 | ..... | ..... |
| Temporary..... | | Oswego..... | Elizabeth Hochino..... | 40 | 137 80 | 34 | 137 84 | ..... | ..... |

BARGE CANAL LAND DAMAGES

95

| | | | | | | |
|--------------------|------------|---|------------|---------|------------|------------|
| | Owego..... | Lafayette Evans, as administrator, etc., of Ella Collins, deceased. | 80 | 350 00 | 99 | 375 66 |
| Temporary | Owego..... | Edward N. and Gertrude M. Lansing. | 80 | 75 00 | 21 | 75 21 |
| Temporary | Owego..... | Otis Nichols. | 80 | 120 00 | 34 | 120 34 |
| Temporary | Owego..... | Otis Michael. | 80 | 120 00 | 34 | 120 34 |
| Temporary | Owego..... | William Walters. | 80 | 313 38 | 88 | 313 38 |
| Temporary | Owego..... | Edward Clay. | 80 | 62 50 | 17 | 62 67 |
| Temporary | Owego..... | Scott W. Clay. | 80 | 62 50 | 17 | 62 67 |
| Temporary | Owego..... | Scott W. Clay. | 80 | 112 50 | 42 | 112 82 |
| Temporary | Owego..... | Fredrick and Edward Yager. | 80 | 212 00 | 92 | 212 82 |
| Temporary | Owego..... | Cornelia Bookino. | 80 | 137 58 | 36 | 137 58 |
| Temporary | Owego..... | Thomas Frasley. | 80 | 100 00 | 36 | 100 36 |
| Temporary | Owego..... | William J. Walters. | 80 | 312 50 | 57 | 313 07 |
| Temporary | Owego..... | Lafayette Evans, as executor, etc., of Ella S. Evans, deceased. | 80 | 350 00 | 64 | 350 64 |
| Temporary | Owego..... | Fredrick and Edward Yager. | 80 | 300 00 | 55 | 300 55 |
| Temporary | Owego..... | Thomas Frawley. | 80 | 100 00 | 18 | 100 18 |
| Temporary | Owego..... | Edward N. and Gertrude M. Lansing. | 80 | 75 00 | 14 | 75 14 |
| Temporary | Owego..... | Fredrick, Eugene, Edwin, Arthur, Ernest Kraft, and Maude Beers. | 80 | 87 50 | 19 | 87 69 |
| Temporary | Owego..... | Kraft, Eugene, Edwin, Arthur, Ernest Kraft, and Maude Beers. | 80 | 87 50 | 19 | 87 69 |
| Temporary | Owego..... | Sarah Hart. | 80 | 120 00 | 48 | 120 48 |
| Temporary | Owego..... | Glen D. Moyer and Fred E. Clark, executors, etc., of William A. Moyer, deceased. | 80 | 112 50 | 25 | 112 75 |
| Temporary | Owego..... | Nora E. Preston. | 80 | 33 00 | 07 | 33 07 |
| Temporary | Owego..... | William H. Patterson. | 80 | 112 73 | 23 | 112 73 |
| Temporary | Owego..... | W. E. and Alice E. Lynch. | 80 | 75 00 | 15 | 75 15 |
| Temporary | Owego..... | John Sullivan. | 80 | 125 00 | 25 | 125 25 |
| Temporary | Owego..... | John and Henry Sullivan. | 80 | 112 50 | 23 | 112 73 |
| Temporary | Owego..... | Richard A. and Harry A. Wagner. | 80 | 60 00 | 12 | 60 12 |
| Temporary | Owego..... | Theodore Jones. | 80 | 100 00 | 20 | 100 20 |
| Temporary | Owego..... | Glen D. Moyer and Fred E. Clark, executors, etc., of William A. Moyer, deceased. | 80 | 125 00 | 25 | 125 25 |
| Temporary | Owego..... | Glen D. Moyer and Fred E. Clark, administrators, etc., of William Abel Moyer, deceased. | 80 | 60 00 | 12 | 60 12 |
| Temporary | Owego..... | Elnor Abbott. | 80 | 30 00 | 06 | 30 06 |
| Temporary | Owego..... | Dennis, James and William Doyle. | 80 | 67 00 | 16 | 67 16 |
| Temporary | Owego..... | Dennis, James and William Doyle. | 80 | 250 00 | 12 | 250 12 |
| Temporary | Owego..... | Dennis, James and William Doyle. | 80 | 375 00 | 79 | 375 79 |
| Temporary | Owego..... | Dennis, James and William Doyle. | 80 | 375 00 | 93 | 375 93 |
| Temporary | Owego..... | Dennis, James and William Doyle. | 80 | 375 00 | 93 | 375 93 |
| Temporary | Owego..... | Dennis, James and William Doyle. | 80 | 375 00 | 93 | 375 93 |
| Total Owego Canal. | | | \$0,403 24 | \$26 52 | \$0,429 76 | \$0,429 76 |
| | | | | | | \$6,513 66 |

SUMMARY OF PAYMENTS OF JUDGMENTS OF THE COURT OF CLAIMS

| CANAL | Section | Amount | Interest | Total |
|---|---------|--------------|-------------|--------------|
| Erie..... | 2 | \$122,021 98 | \$2,000 56 | \$124,022 54 |
| Erie..... | 3 | 1,013 19 | 3 74 | 1,016 93 |
| Erie..... | 4 | 1,639 12 | 4 54 | 1,643 66 |
| Erie..... | 5 | 5,691 39 | 18 99 | 5,710 38 |
| Erie..... | 6 | 1,420 46 | 174 65 | 1,595 11 |
| Erie..... | 7 | 40 00 | 14 | 40 14 |
| Erie..... | 8 | 8,847 08 | 29 30 | 8,876 38 |
| Erie..... | 9 | 50,111 07 | 448 06 | 50,559 13 |
| Erie..... | 10 | 234,886 56 | 8,103 82 | 242,990 38 |
| Erie..... | 11 | 2,102 17 | 7 01 | 2,109 18 |
| Total, Erie canal..... | ..... | \$427,773 02 | \$10,790 81 | \$438,563 83 |
| Champlain..... | 1 | \$502 00 | \$1 67 | \$503 67 |
| Champlain..... | 2 | 8,297 31 | 54 37 | 8,351 68 |
| Champlain..... | 3 | 4,645 00 | 11 98 | 4,656 98 |
| Total, Champlain canal..... | ..... | \$13,444 31 | \$68 02 | \$13,512 33 |
| Oswego..... | ..... | \$9,403 24 | \$26 52 | \$9,429 76 |
| Total, Erie, Champlain and Oswego canals..... | ..... | \$450,620 57 | \$10,885 35 | \$461,505 92 |

STATEMENT SHOWING EXPENDITURES THROUGH JUDGMENTS OF THE COURT OF CLAIMS FOR DAMAGES TO CONTRACTORS ON ACCOUNT OF THE CONSTRUCTION OF THE ERIE, CHAMPLAIN AND OSWEGO CANALS, UNDER CHAPTER 147, LAWS OF 1903, FOR THE YEAR ENDED JUNE 30, 1920

| Section | Canal | NAME | Contract number | Amount | Interest | Total | Total contract | Total section |
|---------|------------|---|-----------------|-------------|----------|-------------|----------------|---------------|
| 7 | Erie..... | Walsh Construction Company..... | 116 | \$22,500 00 | \$18 75 | \$22,518 75 | \$22,518 75 | \$22,518 75 |
| ... | Oswego.... | Barrally & Ingersoll & Ithaca Trust Company.. | 103 | \$9,256 28 | \$30 85 | \$9,287 13 | \$9,287 13 | \$9,287 13 |
| | | Total, Erie, Champlain and Oswego canals.. | ..... | \$31,756 28 | \$49 60 | \$31,805 88 | \$31,805 88 | \$31,805 88 |

COMPTROLLER'S REPORT ON CANALS

STATEMENT SHOWING EXPENDITURES UNDER AGREEMENTS WITH SPECIAL EXAMINER AND APPRAISER FOR LANDS APPROPRIATED, AND DAMAGES THERETO, FOR THE CONSTRUCTION OF THE CAYUGA AND SENECA BARGE CANAL, UNDER CHAPTER 391, LAWS OF 1909, FOR THE YEAR ENDED JUNE 30, 1920

| Map numbers | NAME | Contract number | Amount | Interest | Total | Total contract |
|----------------------|---------------------------------|-----------------|------------|----------|------------|----------------|
| 4282..... | *Emma D. Crane..... | B | \$30 21 | \$13 02 | \$43 23 | \$43 23 |
| 4698..... | *Lewis Shuster, as trustee..... | D | 1,500 00 | 507 50 | 2,007 50 | ..... |
| 4915..... | *Nelson Duntz..... | D | 1,000 00 | 279 50 | 1,279 50 | ..... |
| 4928-A and 4932..... | †John G. Sabold..... | D | 350 00 | 100 68 | 450 68 | ..... |
| 5406..... | *Domenico Scaramussino..... | D | 50 00 | 1 63 | 51 63 | ..... |
| | Total..... | ..... | \$2,930 21 | \$902 33 | \$3,832 54 | \$3,832 54 |

* Paid from Chapter 177, Laws of 1919, Part 2.

† Paid from Chapter 77, Laws of 1919.

STATEMENT SHOWING EXPENDITURES THROUGH JUDGMENTS OF THE COURT OF CLAIMS FOR LANDS APPROPRIATED AND DAMAGES THERETO, FOR THE CONSTRUCTION OF THE CAYUGA AND SENECA BARGE CANAL, UNDER CHAPTER 391, LAWS OF 1909, FOR THE YEAR ENDED JUNE 30, 1920

| Map numbers | NAME | Contract number | Amount | Interest | Total | Total contract |
|----------------------------|---|-----------------|------------|----------|------------|----------------|
| 3722..... | * Federal Telephone and Telegraph Co..... | B | \$201 23 | \$0 73 | \$201 96 | \$201 96 |
| 5012..... | † Sam Samoli and Maria Samoli, his wife..... | D | 2,221 20 | 120 30 | 2,341 50 | 2,341 50 |
| 5024..... | ‡ Elizabeth Cannon, John E. Morse and Ida Morse, his wife, Frances Charles, Edwin M. Morse and Mae Morse, his wife..... | F | 348 23 | 1 16 | 349 39 | 349 39 |
| 4251..... | § Cynthia W. Ingham..... | I | 350 35 | 1 17 | 351 52 | ..... |
| 4245 (6/7th interest)..... | ¶ Cynthia E. Meddock, Marcus M. Case, W. H. Seward Case, Grace Olmsted, Schuyler Case and Edith Case..... | I | 830 20 | 3 32 | 833 52 | ..... |
| 4246-A and 4440..... | ¶ Edward J. Dunn, as sole surviving executor of the last will and testament of Matthew H. Arnold, deceased..... | I | 5,000 00 | 16 66 | 5,016 66 | 6,201 70 |
| | Total..... | ..... | \$8,951 21 | \$143 34 | \$9,094 55 | \$9,094 55 |

* Paid from Chapter 55, Laws of 1920.

† Paid from Chapter 34, Laws of 1920.

‡ Paid from Chapter 77, Laws of 1919.

§ Paid from Chapter 77, Laws of 1919 and Chapter 177, Laws of 1919, Part 2.

¶ Paid from Chapter 77, Laws of 1919 and Chapter 55, Laws of 1920.

STATEMENT SHOWING EXPENDITURES UNDER AGREEMENTS WITH THE SPECIAL EXAMINER AND APPRAISER FOR LANDS APPROPRIATED, AND DAMAGES THERETO, FOR THE CONSTRUCTION OF BARGE CANAL TERMINALS UNDER CHAPTER 746, LAWS OF 1911, FOR THE YEAR ENDED JUNE 30, 1920

| Map numbers | NAME | Location | Contract number | Amount | Interest | Total | Total contract |
|---------------------|---|-----------------|-----------------|--------------|-------------|--------------|----------------|
| T-50-A..... | The New York Central Railroad Co..... | Amsterdam..... | T-12 | \$7,100 00 | \$2,868 40 | \$9,968 40 | \$9,968 40 |
| T-20..... | Edward F. Murray..... | Lower Troy..... | T-14 | 15,496 75 | ..... | 15,496 75 | 15,496 75 |
| T-137..... | Salt Springs Solar Co..... | Syracuse..... | T-20 | 1,896 00 | 50 24 | 1,946 24 | 1,946 24 |
| T-137-A, T-138..... | Peoples Gas and Electric Co. of Oswego..... | Oswego..... | T-30 | 17,108 96 | 3,339 20 | 20,449 25 | 20,449 25 |
| T-140, T-141..... | | | | | | | |
| T-151, T-177..... | | | | | | | |
| T-178, T-179..... | | | | | | | |
| T-180..... | | | | | | | |
| T-140, T-141..... | The Lehigh Valley Railroad Co..... | Rochester..... | T-48 | 181,241 15 | ..... | 181,241 15 | ..... |
| T-151..... | | | | | | | |
| T-159..... | The Lehigh Valley Railroad Co..... | Rochester..... | T-48 | 2,058 98 | ..... | 2,058 98 | ..... |
| T-160..... | Alfred Carletran and Monroe County Savings Bank of Rochester..... | Rochester..... | T-48 | 4,000 00 | 280 67 | 4,280 67 | ..... |
| T-162..... | Mary Keefe..... | Rochester..... | T-48 | 200 00 | 12 27 | 212 27 | ..... |
| T-163..... | Edith H. Kintz, Edith A. Mallory, Fred E. Wray, B. For-
man and East Side Savings Bank of Rochester..... | Rochester..... | T-48 | 5,200 00 | 312 87 | 5,512 87 | |
| T-164..... | Frederick Baetzel, Louise G. Baetzel, Emilie F. Baetzel by
Emeline Eckhardt..... | Rochester..... | T-48 | 15,000 00 | 1,372 50 | 16,372 50 | |
| T-166-A..... | William T. Jackling and the fire department of the city of
Rochester..... | Rochester..... | T-48 | 12,500 00 | 677 08 | 13,177 08 | |
| T-167-A..... | Catherine G. Marzahl, Albert F. Rebban and The Rochester
Savings Bank..... | Rochester..... | T-48 | 5,625 00 | 356 25 | 5,981 25 | |
| T-171..... | Joseph F. Kalb and Frank Kalb by Charles Van Voorhes,
attorney in fact..... | Rochester..... | T-48 | 4,500 00 | 294 00 | 4,794 00 | |
| T-174..... | Charles W. Weis..... | Rochester..... | T-48 | 20,600 00 | 2,159 57 | *22,759 57 | ..... |
| T-176..... | William H. Plumb, Robert J. Plumb, Almond H. Plumb,
Monroe Judson and Watson S. Plumb..... | Rochester..... | T-48 | 11,000 00 | 634 33 | 11,634 33 | |
| | | | | 1,640 00 | 115 07 | 1,755 07 | 269,779 74 |
| | | | | \$305,167 84 | \$12,472 54 | \$317,640 38 | \$317,640 38 |

* Paid from chapter 402, Laws of 1920.

STATEMENT SHOWING EXPENDITURES THROUGH JUDGMENTS OF THE COURT OF CLAIMS FOR LANDS APPROPRIATED,
AND DAMAGES THERETO, FOR THE CONSTRUCTION OF BARGE CANAL TERMINALS, UNDER CHAPTER 746, LAWS
OF 1911, FOR THE YEAR ENDED JUNE 30, 1920

| Map numbers | NAME | Location | Contract number | Amount | Interest | Total | Total contract |
|-------------|--|-----------------|-----------------|-------------|----------|-------------|----------------|
| T-20..... | Boston and Maine Railroad..... | Lower Troy..... | T-14 | \$76,000 00 | \$253 33 | \$76,253 33 | *\$76,253 33 |
| T-79..... | Henry C. Ballou and William Bellinger Smith..... | Utica..... | T-15 | 1,518 08 | 4 05 | 1,522 13 | 1,522 13 |
| | | | | \$77,518 08 | \$257 38 | \$77,775 46 | \$77,775 46 |

* Paid Boston and Maine Railroad amount of judgment, \$108,425, together with interest amounting to \$343.35, by assignment to the Comptroller as an investment for Canal Debt Sinking Fund No. 4. Of this judgment the Canal Debt Sinking Fund was reimbursed from appropriation \$76,000 and the balance of the judgment held as an investment until appropriation is made by the legislature.

STATEMENT SHOWING EXPENDITURES THROUGH JUDGMENT OF THE COURT OF CLAIMS FOR DAMAGES SUSTAINED
BY CONTRACTOR FOR THE CONSTRUCTION OF BARGE CANAL TERMINALS, UNDER CHAPTER 746, LAWS OF 1911,
FOR THE YEAR ENDED JUNE 30, 1920

| NAME | Location | Contract number | Amount | Interest | Total | Total contract |
|-----------------------------|-----------------|-----------------|----------|----------|----------|----------------|
| Walsh Construction Co. | Lower Troy..... | T-14 | \$735 50 | \$56 62 | \$792 12 | \$792 12 |

STATEMENT SHOWING EXPENDITURES UNDER AGREEMENTS WITH THE SPECIAL EXAMINER AND APPRAISER FOR
LANDS APPROPRIATED AND DAMAGES THEREO FOR THE CONSTRUCTION OF HUDSON RIVER TERMINALS UNDER
CHAPTER 555, LAWS OF 1918 FOR THE YEAR ENDED JUNE 30, 1920

| Map numbers | NAME | Location | Contract number | Amount | Interest | Total | Total contract |
|-------------------|---|-------------------|-----------------|-------------|----------|-------------|----------------|
| T-190, T-191..... | City of Poughkeepsie..... | Poughkeepsie..... | T-74 | \$32,500 00 | \$269 00 | \$32,760 00 | \$32,760 00 |
| T-182..... | James B. Ludlow and Annie Ludlow Winters, \$40,000,
less \$4,000 retained for taxes..... | Yonkers..... | T-75 | 36,000 00 | 693 33 | 36,693 33 | 36,693 33 |
| | | | | \$68,500 00 | \$963 33 | \$69,453 33 | \$69,453 33 |

|| 11 | 55.0 || 1 | 9390 || 5 | 1 | 33 ||

STATEMENT SHOWING THE JUDGMENTS OF THE COURT OF CLAIMS,
TOGETHER WITH INTEREST THEREON, PAID DURING THE YEAR
ENDED JUNE 30, 1920, UNDER CHAPTER 177, LAWS OF 1919,
PART 2, CHAPTER 34, LAWS OF 1920, AND CHAPTER 165, LAWS
OF 1920, PART 2

| NAME | Amount
of
judgment | Interest | Total |
|--|--------------------------|-------------------|--------------------|
| Erie canal: | | | |
| James Lannon..... | \$60 00 | \$0 14 | \$60 14 |
| Clara L. Stege and Edwin C. Stege..... | 200 00 | 47 | 200 47 |
| Clara L. Stege and Edwin C. Stege..... | 75 00 | 18 | 75 18 |
| Germanino Saccoccio..... | 150 00 | 4 28 | 154 28 |
| Robert T. Townsend..... | 1,000 00 | 21 67 | 1,021 67 |
| Jonathan C. Harnden..... | 70 00 | 1 31 | 71 31 |
| Mary C. Toole..... | 1,708 42 | 15 37 | 1,723 79 |
| Albert C. Hirzel..... | 700 00 | 7 00 | 707 00 |
| Helen C. Bedell..... | 150 00 | 1 50 | 151 50 |
| Peter Van Ditto..... | 5,750 00 | 382 25 | 6,112 25 |
| Charles A. Goodfellow..... | 75 00 | 4 63 | 79 63 |
| Salt City Express and Trucking Co., Inc..... | 200 00 | 12 23 | 212 23 |
| Thomas W. Howell..... | 2,224 71 | 139 79 | 2,364 50 |
| George H. & John L. Lee..... | 4,199 00 | 263 84 | 4,462 84 |
| Edward F. Saroney..... | 670 00 | 41 32 | 711 32 |
| Joseph DePalma and Antonio Quidone..... | 977 50 | 61 09 | 1,038 59 |
| Fred J. Saroney..... | 897 50 | 119 97 | 1,017 47 |
| Fred J. Saroney (costs)..... | 81 05 | 5 55 | 86 60 |
| Antonio Quidone..... | 3,457 00 | 216 06 | 3,673 06 |
| Alexander Savarese..... | 340 00 | 21 25 | 361 25 |
| Mary Ann Van Ditto..... | 1,057 00 | 65 18 | 1,122 18 |
| Joseph Savarese..... | 1,274 50 | 79 66 | 1,354 16 |
| Michele De Masi and Antonio Quidone..... | 571 00 | 35 69 | 606 69 |
| Hannah McNeil as administrator, etc..... | 1,200 00 | 73 40 | 1,273 40 |
| Matthew S. Brown..... | 254 00 | 15 07 | 269 07 |
| Arthur R. Kinslow..... | 50 00 | 2 97 | 52 97 |
| James Van Alstyne..... | 50 00 | 2 97 | 52 97 |
| D. S. Hunt..... | 169 30 | 10 05 | 179 35 |
| Mary W. Port..... | 157 00 | 9 32 | 166 32 |
| George B. Thompson..... | 174 20 | 10 34 | 184 54 |
| David C., Levi O. and Moses W. Waters..... | 750 90 | 44 55 | 795 45 |
| B. Winifred Rhydur, administratrix..... | 150 40 | 8 92 | 159 32 |
| Henry D. and Mabel Bingle..... | 75 00 | 4 45 | 79 45 |
| Mark J. Springer..... | 408 00 | 24 21 | 432 21 |
| Eben Munson, Paul Reed and John Brown..... | 1,125 00 | 63 38 | 1,188 38 |
| James Lannon..... | 60 00 | 3 39 | 63 39 |
| Frederick C. Wichmann and Charles R. Martin..... | 187 45 | 9 15 | 196 60 |
| Sarah Greason..... | 130 00 | 17 44 | 147 44 |
| Gertrude Sullivan..... | 1,200 00 | 123 80 | 1,323 80 |
| Gertrude Sullivan (costs)..... | 75 60 | 3 09 | 78 69 |
| Charles S. Getman..... | 300 00 | 6 25 | 306 25 |
| Le Roy Chapman by Harry W. Chapman his guardian
ad litem..... | 1,500 00 | 31 25 | 1,531 25 |
| Charles N. Marsh, Jr..... | 220 00 | 4 40 | 224 40 |
| Total Erie canal..... | \$34,124 53 | \$1,948 83 | \$36,073 36 |
| Champlain canal: | | | |
| Luther L. Bunker..... | \$540 00 | \$34 29 | \$574 20 |
| James Stewart..... | 20 00 | 39 | 20 39 |
| James Stewart..... | 40 00 | 53 | 40 53 |
| William J. Stewart..... | 20 00 | 39 | 20 39 |
| Total Champlain canal..... | \$620 00 | \$35 51 | \$655 51 |
| Oswego canal: | | | |
| Lillian M. Drennan..... | \$250 00 | \$6 50 | \$256 50 |
| Thomas McDonald..... | 1,472 00 | 35 35 | 1,507 35 |
| Thomas C. Drennan..... | 2,498 00 | 49 96 | 2,547 96 |
| Total Oswego canal..... | \$4,220 00 | \$91 81 | \$4,311 81 |

JUDGMENTS OF COURT OF CLAIMS — (*Concluded*)

| NAME | Amount
of
judgment | Interest | Total |
|--------------------------------------|--------------------------|-------------------|--------------------|
| Black River canal: | | | |
| Alexander J. Riley | \$3,500 00 | \$1 75 | \$3,501 75 |
| Clarence Riley | 1,200 00 | 60 | 1,200 60 |
| Edward H. Leggett | 215 15 | 12 62 | 227 77 |
| William H. Rogers | 255 25 | 14 85 | 270 10 |
| Total Black River canal | \$5,170 40 | \$29 82 | \$5,200 22 |
| Total all canals | \$44,134 93 | \$2,105 97 | \$46,240 90 |



10

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—

Alc
Cl
Ed
Wl

=

789,724 90

878 038 03

STATEMENT Showing the Amount of Taxes Paid into the Treasury, for Account of the Canal Fund,
under the Present Constitution.

| Y.R. | For
General
Fund, Debt
Sinking
Fund and
for other
purposes. | For
Sinking
Fund
under
article 7,
section 1. | For
Sinking Fund,
under
article 7, sec-
tion 3. | For
Sinking
Fund, under
article 7,
section 12. | For
Sinking
Fund, under
article 7,
section 4. | For
enlargement
and comple-
tion of the
canals, under
article 7, sec-
tion 3, and for
extraordi-
nary repairs. | For
improve-
ment of the
Champlain
canal. | For
extension
of the
Chenango
canal. | For
improve-
ment of
the
Genesee
Valley
canal. | For
maintenance
and
ordinary re-
pairs. | Total. |
|-------|---|---|---|--|---|--|---|--|--|---|--------------|
| 1846. | \$56,503 47 | \$119,410 30 | | | | | | | | | \$56,503 47 |
| 1847. | | | | | | | | | | | 119,410 30 |
| 1848. | \$21,467 47 | | | | | | | | | | 631,467 47 |
| 1849. | 87,500 00 | | | | | | | | | | 320,000 00 |
| 1850. | 262,500 00 | | \$232,500 00 | | | | | | | | 262,500 00 |
| 1851. | | | | | | | | | | | 1,240,500 00 |
| 1852. | | 40,500 00 | | | | | | | | | 800,507 66 |
| 1853. | | 47,000 00 | | | | | | | | | 1,090,515 70 |
| 1854. | | | | | | \$1,200,000 00 | | | | | 1,090,515 70 |
| 1855. | | | | | | 163,507 66 | | | | | 2,786,623 09 |
| 1856. | | | | | | 1,069,515 70 | | | | | 1,420,158 45 |
| 1857. | | | | | | 490,552 28 | | | | | 881,779 20 |
| 1858. | | | | | | 713,674 88 | | | | | 535,373 94 |
| 1859. | | | | | | 866,614 17 | | | | | 2,147,613 92 |
| 1860. | | | | | | | | | | | 1,406,547 93 |
| 1861. | | | | | | | | | | | 1,019,265 98 |
| 1862. | | | | | | | | | | | 1,828,400 30 |
| 1863. | | | | | | | | | | | 1,595,133 56 |
| 1864. | | | | | | | | | | | 3,890,035 93 |
| 1865. | | | | | | | | | | | 2,238,095 69 |
| 1866. | | | | | | | | | | | 3,947,317 64 |
| 1867. | | | | | | | | | | | 2,537,519 04 |
| 1868. | | | | | | | | | | | 712,819 86 |
| 1869. | | | | | | | | | | | 900,208 50 |
| 1870. | | | | | | | | | | | 805,083 31 |
| 1871. | | | | | | | | | | | 789,724 90 |
| 1872. | | | | | | | | | | | 878,938 03 |
| 1873. | | | | | | | | | | | 758,797 92 |
| 1874. | | | | | | | | | | | 1,115,917 76 |
| 1875. | | | | | | | | | | | |
| 1876. | | | | | | | | | | | |
| 1877. | | | | | | | | | | | |
| 1878. | | | | | | | | | | | |
| 1879. | | | | | | | | | | | |
| 1880. | | | | | | | | | | | |
| 1881. | | | | | | | | | | | |
| 1882. | | | | | | | | | | | |
| 1883. | | | | | | | | | | | |
| | | | | | | | | | | \$260 30 | |

STATE OF NEW YORK

R E P O R T

OF THE

**JOINT LEGISLATIVE COMMITTEE
ON ELECTION LAW**



**ALBANY
J. B. LYON COMPANY, PRINTERS
1921**

REPORT OF JOINT LEGISLATIVE COMMITTEE ON THE ELECTION LAW.

To the Legislature:

This committee was created by joint resolution of the Senate and Assembly, adopted April 24, 1920. By such resolution the committee was to consist of two members of the Senate, to be appointed by the president of the Senate, and three members of the Assembly to be appointed by the speaker of the Assembly. Such appointments were made and the personnel of the committee is the same as it was at the beginning, by reason of a resolution adopted by the present session, notwithstanding the election of one of the Assembly members to the State Senate. The time originally fixed for the committee to make its report was February 1, 1921, which time has been extended to March first.

The object and purpose of the committee, as set forth in the resolution by which it was created, was to examine the election law and other statutes of the State relating to crimes respecting the elective franchise and corrupt practices at primaries and elections, and recommend to the Legislature such revision thereof and changes therein as to the committee might seem proper.

The committee was not appointed until the month of July, nineteen hundred and twenty, and was not organized until the latter part of that month. Immediately following the organization, by the election of a chairman and secretary and the appointment of a legal adviser, the committee attempted to elicit by mail the views of all of the commissioners of elections in the various counties of the State. The responses were few, and the committee therefore arranged for a conference of such commissioners, with the committee, at Syracuse, on November 13, 1920. Such conference was held and was attended by commissioners representing a majority of the counties of the State. Many valuable suggestions tending toward economy and simplification of the procedure in matters relating to elections and primaries were offered and many of them were adopted and are included in the proposed bill which accompanies or follows this report. Later the committee met with the board of elections of the City of New York, in such city, and listened to suggestions from such board and from representatives of various political organizations and civic bodies.

The result of this conference was the adoption of several valuable suggestions. Several other meetings of the committee were held.

The first question of importance which confronted the committee was whether there should be a so-called recodification of the election law, meaning by that a general transposition and renumbering of articles, sections and subdivisions. The committee recognized the fact that the position of the provisions of the present election law is illogical, that the law abounds with duplications of language which might well be consolidated and simplified. Notwithstanding these features of the law, the committee was convinced that a recodification was impracticable at this time. The present duplications of language are due chiefly to the wide differences as to the time, place and manner of holding elections throughout the State. For instance: Some city elections are held in the spring and some at the time of the general election; some town meetings are held in the spring and others at the time of general election in an odd numbered year and still others at the time of general election in an even numbered year; nominations for some city elections are made at unofficial primaries and others at the official primary; nominations for some of the town meetings are made by town caucus and others by town conventions. Other differences occur affecting the appointment of election officers, designation and publication of lists of polling places, publications of lists of registered voters, and similar matters. It seemed to the committee that a necessary incident of consolidating provisions of the law and condensing the language would be the making uniform of several matters of procedure which would be satisfactory to the localities affected. It might be done, but only after an exhaustive investigation which would have been impossible between the time of appointment of this committee and the close of the present session of the Legislature. Furthermore, it is apparent that the present Legislature will have before it numerous bills relating to party nominations. All of these bills will be in the form of amendments to the existing law, amending sections as now numbered. Whatever measure may be adopted relating to this subject would finally have to be adapted to the recodified form of the law, if a recodification were made. The peril attending an attempt of that kind would be great. It would have to be done quickly, with inaccuracy as a sure result. The committee therefore favored a simple revision of existing provisions of the Election Law, to correct inaccuracies, reduce expenses in operating the election

machinery, reduce the labors of election officers, and generally to simplify the procedure. The bill which accompanies this report is intended to effect those objects.

Suggestions have been made to transfer to the Penal Law everything in the Election Law which defines a crime or imposes a penalty. At the first blush this seemed reasonable. After giving the matter much thought and consideration, the committee found serious objections to such a plan. To transfer such provisions to the Penal Law would often require a repetition of the language of the Election Law in order to state just what a person was prohibited from doing, or else a reference to the Election Law by section number. In the former case, any amendment to the Election Law affecting the matter transferred to the Penal Law would always necessitate a corresponding amendment of the Penal Law. Experience has shown that where the Penal Law prescribed the penalty for an offense against certain provisions of another law and the latter law is amended, the legislator forgets to introduce a bill to amend the Penal Law. The result is that the other law, as amended, forbids a person from doing a certain thing and the Penal Law prescribes a punishment if he does something else and which is not forbidden by the other law as amended; or, the Penal Law will prescribe a punishment for part of the offense against the other law and prescribe no punishment for another part. If the Penal Law provision refers to the other law simply by section number without reciting provisions thereof, any renumbering of sections of the other law might affect the force of the Penal Law. If, at the present time, provisions of law were included only in the Penal Law, there might be some point in trying to put all penal provisions of the Election Law into the Penal Law. If the penal provisions of the Election Law were transferred to the Penal Law, there would still be left a multitude of penal provisions scattered throughout the Consolidated Law, from the Agricultural Law to the Village Law. Hence, anything that this committee might do in the way of such transfer would not correct the general situation. The principle of placing in the Penal Law all penal provisions of statute would not be achieved. It must be considered that over 50,000 election officers in the State of New York refer to few provisions of the Election Law annually. If the election officer can see from the section if he violates its provisions he is subject to a fine or imprisonment, he will be more impressed than he will by an inference that possibly he is subject to punishment under some other

law. Hence, the committee has made no attempt to transfer penal provisions of the Election Law to the Penal Law.

The committee has prepared a bill to accompany or follow this report. It may properly be termed a revision of the Election Law, inasmuch as it makes extensive changes in the provisions thereof. Attention is called to the following changes effected in the bill:

1. Abolishes the office of State Superintendent of Elections and transfers his powers and duties to the sheriffs of the several counties and police of the several cities and villages, retaining the salutary provisions of the law relating to sworn statements by lodging-house keepers. An incident of the abolition of such office is the elimination of one set of card lists of registered voters in cities. In the budget of requested appropriations for the next fiscal year, the Superintendent of Elections asks for a total of \$319,390. This seems to be an unnecessary expenditure. Under the present provisions of the law the police in cities are required to investigate all registrations and enrollments immediately upon their completion. Under the provisions suggested by the committee, facilities are afforded for beginning such investigation immediately upon the close of the first date of registration. In addition to such investigation, the sheriff and police are given ample powers to be exercised throughout the year, to prevent false registration.

2. Nominations of party candidates for State-wide offices and the office of Justice of the Supreme Court by State and judicial district conventions, respectively. The delegates thereto are to be elected direct, at the fall primary. Provide for an official certificate by the Secretary of State, setting forth a list of delegates and alternates who are elected at the primaries and give every delegate so elected the absolute right to sit in the convention in the absence of a court order denying that right. In order to accomplish the plan suggested, such primary is required to be held on the ninth Tuesday before the general election instead of the seventh Tuesday as at present. At such primary, nominations of candidates for other offices are to be made by the enrolled party voters as at present, upon designation by petition only. The nomination by convention, as provided in the bill, is not absolute. Opportunity is given for calling an additional primary upon the filing of a designating petition signed by 15 per cent. of the enrolled party voters. In the case of a State-wide

office, this 15 per cent. must be obtained in such manner that not less than 10 per cent. of the enrolled party voters in each judicial district must sign the petition. If such petition be duly filed, the nomination by convention becomes itself a designation, and the party nomination is determined at the extra primary. This extra primary is held on the fifth Tuesday before the general election. Inasmuch as such a contest would ordinarily be limited to one party, or to one of the major parties and one of the lesser parties, the board of elections is permitted to combine election districts throughout a town or ward for the purpose of such extra primary, and to place one board of primary officers in charge thereof, to consist of four persons selected from the existing election officers of the town or ward. As the ballots in every county would all be similar, a uniform ballot is to be provided, omitting the name of the assembly district, city, town, ward or number of election district thereon. As the time intervening between the fall primary and the extra primary is limited, provision is made that the candidate named by an opposing designating petition must attach his written consent to the designation, duly acknowledged, and that it must be filed with the petition. The only vacancy that could be filled would be one caused by his death or disqualification. Provision is made that no extra primary shall be held, if by the filling of vacancies in either the convention nomination or the opposing designation, no person is a candidate in opposition to the choice of the convention or of its committee to fill vacancies. In other words, the plan proposed is nomination by convention subject to referendum, in the cases of candidates for State-wide offices and the office of Justice of the Supreme Court. Suggestions have been made that all officers be nominated by conventions composed of delegates elected at an official primary with the same safeguards as provided in the proposed bill as to the nomination for State and judicial candidates. In order that open discussion may be had, a separate bill is being prepared following out these suggestions.

3. The hours of official primaries outside of the City of New York shall be from 1 o'clock in the afternoon until 9 o'clock in the evening. Experience has shown that practically no votes are cast before 1 o'clock.

4. Reduces the number of election officers in each election district in the City of New York from 12 to 10 at a general election and from 12 to 6 at any other election. At present, each election

district in such city has 4 inspectors, 2 ballot clerks, 2 poll clerks and 4 canvassing inspectors.

5. Permits party enrollment by mail by absentee voters residing in districts where personal registration is not required. At present, such an absentee voter is not required to appear personally on the date of registration nor at the general election. He is not, therefore, in a position to cast an enrollment ballot.

6. Reduces the number of official ballots for an election from 125 per cent. to 110 per cent. of the registered vote. Also reduces the number of official primary ballots from 120 per cent. of the enrolled vote to a number to be determined by the board of elections, which shall be not less than 75 per cent. nor more than 105 per cent. Experience has shown that in 99 election districts out of every 100 not more than $33\frac{1}{3}$ per cent. of the enrolled party vote is cast. The average board of elections will get notice of a prospective primary fight as soon as any one else, and it may be governed by its own judgment as to the number of ballots needed.

7. Empowers the board of elections to omit from the face of primary ballot the name of the town or city and the number of assembly district or ward and the election district, all of which are printed on the back of the ballot. It is insisted that the re-setting of type in preparing the different ballots for the several towns, wards and election districts is very expensive, in many places, on account of the inclusion of such items.

8. Abolishes card lists of registered voters in election districts where registration is not required to be personal. The committee was informed by a deputy of the superintendent of elections that card lists for such districts were never "checked up." That being the case, the committee considered that the printing and filling of any such cards in the country districts is a needless expenditure of time and money.

9. Eliminates the names of presidential electors from the published lists of nominations, substituting a statement that a certain number of electors are nominated to support certain candidates, naming them, for president and vice-president. The voters who are obsessed with the idea that their duties as citizens require them to make a careful study of the personnel of presidential electors are few in number. Such voters have ample opportunity of obtaining sample ballots in time to scrutinize the lists of electors and exercise their discrimination before casting the official ballot.

10. Modifies the provisions relating to publication of the official canvass, so that the aggregate results only in the county or other political subdivision shall be shown, thus eliminating the result in each election district.

11. Dispenses with the mailing of concurrent resolutions and propositions by town clerks, in country districts, and with the distribution thereof at places of registration in city and country. As a substitute, the board of elections is required to keep on hand for a limited time before election a sufficient number of copies of such resolutions and propositions for persons applying therefor, and the notice of election is to state briefly that certain resolutions and propositions are to be submitted and are obtainable at the office of the board.

12. Eliminates the provision for special enrollment of a new political party. As a substitute, such a party is allowed to make its nominations for the *first* general election, or election occurring prior thereto, in such manner as its rules and regulations may provide. While this is included in the main bill, a separate bill has been introduced, on the recommendation of the committee, so that it may become a law before a large sum of money has been expended in the present year for enrollment blanks and mailing. The result of the last general election was the addition of a new political party.

13. In cities, gives the board of elections discretion as to the extent and manner of posting maps of election districts, retaining only as mandatory the requirement of posting in the places of registration.

14. Increases the number of voters necessary to constitute a political party from 15,000 to 30,000. By reason of the woman's suffrage amendment to the Constitution, 30,000 voters are now about the same percentage of all the voters as 15,000 were formerly.

15. Makes each election district a primary district throughout the State. That is the existing plan in cities of the first class and in territory outside of cities of the second and third class. Great confusion is found to result from requiring a party voter to attend a primary outside of his own election district. He naturally goes to the place where he voted at the last general election, if that place is continued as primary polling place.

16. Makes material changes in relation to election returns and tally sheets. At present, the certificate on each tally sheet for each office has to be signed by the six election officers, or by four

in the City of New York. By the committee bill, each tally sheet is subscribed with the initials of the two poll clerks or the inspectors acting as such. At present, the election officers have construed the law to mean that they must sign and swear to each of the returns of canvass as to each separate office. The committee bill dispenses with the taking of an affidavit and substitutes a certificate, which certificate also authenticates the tally sheets which are a part of the returns. It also provides for but one certificate at the end of each set of returns instead of on the return for each office or question.

17. Increases the pay of canvassing inspectors in the City of New York from \$6 to \$12. It was found at the last election that the work of canvassing a Massachusetts ballot and two other ballots was worth much more than the amount paid, and it was regarded as very doubtful that election officers could be secured at another election without an attractive fee.

18. Removes the present limitations on salaries of commissioners of elections, outside of New York city, leaving the matter to the board of supervisors to determine. By subdivision five of section twelve of the County Law the board of supervisors are given the broadest powers in fixing salaries of county officers, and the committee is of the opinion that there is no special reason for making an exception of commissioners of elections.

19. Allows the appointment of school teachers as election officers, where the school authorities do not object. It has been urged that any employee of the State or a municipality should be allowed to serve as an election officer. The committee believes that greater efficiency would result from allowing such persons to serve, and it has no doubt that they would act honestly. A thing to be borne in mind, however, is the necessity of public confidence in the elections. The committee feels that to have the polling place manned with job-holders who, very often, are interested in the success of a particular party or candidate would create suspicion and distrust among the electorate. Hence, the committee favors only extending the right to act as election officers to the class of public employees who are least affected by political changes.

Numerous other changes tending to simplification of the election machinery have been included which may be better understood by perusal of the bill.

JAS. L. WHITLEY.
DE HART H. AMES.

MINORITY REPORT

The following Member of the Joint Legislative Committee on Revision of the Election Laws subscribes to all recommendations recited in the report submitted by Senators Whitley and Ames, but takes exception to the incorporation in such report of the recommendation relative to the abolition of the Direct Primary, in so far as it applies to the selection of nominees for State and judicial offices.

I have repeatedly urged that this be not made a part of the report, or any proposed bill, and in my belief the extreme endeavor to pass this particular piece of legislation masked in the proposed bill, embodying the numerous and non-controversial features, is unfortunate and is truly a confession that the abolition of the Direct Primary feature is one of uncertainty, and it should by all means be a measure of individual character, to be determined on the floor of the Houses.

JAMES H. CAULFIELD, Jr.

MINORITY REPORT

The report to the Legislature signed by a minority of the Joint Legislative Committee on the Election Law is a voluminous document which deals with many matters of minor importance in a very serious manner, and covers with a mass of triviality certain propositions which are of great importance to all the voters of the State of New York.

With the conclusions and recommendations of the two Republican members, who signed the report, we cannot entirely agree, and therefore submit this report.

To reach the main question it seems unnecessary to deal with matters of recodification of the law, amendments to the Penal Law, so that in each particular instance the penalty will fit the crime, and various changes in the present statute presented for the ostensible purpose of reducing expenses of administration. All such suggestions are subordinate to the main purpose which — when discovered — is to restore party conventions and bring back the old system of nominating State officers and Justices of the Supreme Court.

Such recommendation could have been made with few words if those who signed the report were not doubtful of public sentiment. In many localities the direct nomination system has many ardent friends and well-wishers. It is not as unpopular with the masses as some would like it to be.

Abolition of the office of State Superintendent of Elections, and the transfer of powers and duties to local officials, is in harmony with a general scheme recommended by the Governor, based upon representations of economy. What saving, if any, can be made to taxpayers is problematical, and it is certain that no economy will result from a mere transfer of powers and duties from one place to another. If the work is important and should be done, there is no doubt it will be paid for. Taxpayers are not particular whether the sums of money they pay annually are handled by the State or local officials so long as their tax-bill is not materially reduced.

With regard to the business handled by the State Superintendent of Elections and his deputies, there is no suggestion in

the minority report that it has become unnecessary to secure honest and proper supervision and control of nomination and election machinery, nor is it shown how such supervision and control can be made effective by placing all responsibility upon local officers, for the present policy of State control was adopted to cure the manifest evil of laxity in law enforcement under local management.

Not long ago a majority in the Legislature agreed that State supervision was desirable and would pay substantial dividends in public confidence.

Upon the main question there can be no misunderstanding. A desire to get rid of direct primaries is apparent among many who are influential, and actively engaged in politics. Governor Hughes met with strong opposition when he presented the matter as one of "*Supreme importance.*" With all his influence and ability he was unable to secure from his party associates sufficient support to pass the law. The seed which he planted was "good seed" and produced fruit. Now the question is—"Shall the tree be cut down?"

The report signed by the two senators does not meet the issue fairly, nor does it contain any affirmation of facts upon which to decide such an important question. A fatal admission is contained in the words "The nomination by convention, as provided in the report, is not absolute." If it is the proper method, why should it not be final and conclusive?

The proposition that *objectors* may be allowed to file petitions and present other candidates is impracticable for the obvious reason that all who would dare to enter such a protest against their party organization acting in convention would be properly disciplined by the regular party organization, and find themselves politically outcast. It is not the legitimate business of any political party to maintain an organization for the purpose of presenting particular or favorite candidates for office. The organization should support such candidates as the enrolled voters select to represent the party and its principles.

Experience in this and other States has disposed of many objections that were originally raised to the Direct-Primary plan. Such matters will be discussed in the debate upon the proposed bill, and need not be considered here in detail. In support of the measure recommended by the two Republican members of the committee there will certainly be some who will lay stress upon

the saving of money through what is characterized as "Simplification of Election Machinery."

An unprejudiced and impartial investigation will satisfy anyone who wants the truth of the matter that Direct Primaries have not been a very great expense in comparison with the number of people interested, and whose rights should be considered. The "bug-bear" of expenses is intended to frighten some away from deliberate examination of the real questions involved. Upon a basis of voting population the expense of primary elections is small *per capita*, as will appear in every instance where there has been any rivalry among candidates and an interest on the part of voters. Facts are available, and there need be no guesswork in reaching a fair understanding of this branch of the subject.

In view of the fact that both men and women now participate in elections there should be no attempt to limit and circumscribe political activity. It is unfair to women that they should be compelled to submit themselves to organizations operating through the Convention-System, and be deprived of the freedom of choice which now prevails.

Some recommendations contained in the report of the two Republicans are not objectionable, and may well be considered in amending the present Election Law. They are, however, quite unimportant in comparison with the main questions involved and need not be discussed here. The principal consideration is whether we are prepared to abandon the advance ground occupied by those who have led voters forward and given the courage to demand as a right the opportunity of selecting their own candidates. If primary elections are to be continued for certain purposes there will be no material saving of expense by restoring party conventions for the purpose of naming candidates for State offices and judicial positions and if the concession is once made it will be followed by vociferous demand that we return to the old days of *secret confab and unadulterated bossism*.

For the purpose of framing an issue that can be understood, and submitting it fairly and squarely to the people's representatives, this report is respectfully submitted.

Supplemental to this report, and for information of members we submit the following statement of Primary and General Election returns from 1914 to 1918 by Counties (Marked "Exhibit A."); and also a statement of the cost of primary elections from

1914 to 1917 (Marked "Exhibit B."); which tables were prepared and furnished by William E. Hannan, Librarian of the Legislative Reference Library of the State of New York. The cost as shown is calculated upon the number of primary ballots cast, and the cost per voter, which is the only true test, can be found by reference to an estimated enrollment and general election returns (Exhibit A.).

We also submit a digest of the laws of various States — prepared by the Legislative Reference Librarian — relating to nomination of candidates by Direct Primaries, by State Convention, and by Judicial Convention (Marked "Exhibit C.").

All of which is respectfully submitted.

March 23, 1921.

JAMES J. WALKER,
Member of the Senate.

MAURICE BLOCH,
Member of Assembly.

EXHIBITS

[17]

PRIMARY AND GENERAL ELECTION RETURNS FOR THE YEAR
William E. Hannan, Legislative Reference

| COUNTIES | 1914 | | | 1915 | | |
|-------------------------|-----------------|---------------------|---------------------|-----------------|---------------------|---------------------|
| | Enroll-
ment | Primary
election | General
election | Enroll-
ment | Primary
election | General
election |
| Albany..... | 45,787 | | 45,274 | 44,960 | 14,803 | 44,507 |
| Allegany..... | 9,094 | 3,114 | 8,059 | 8,756 | 3,160 | 8,207 |
| Bronx, see New York. | | | | | | |
| Broome..... | | | 18,593 | | | 17,507 |
| Cattaraugus..... | 14,129 | 4,429 | 12,729 | 12,995 | 4,932 | 15,040 |
| Cayuga..... | 11,720 | | 11,893 | 13,048 | 4,990 | 12,007 |
| Chautauqua..... | 16,194 | | 16,429 | 17,622 | | 21,107 |
| Chemung..... | 9,961 | 3,638 | 12,240 | 10,835 | 4,572 | 14,500 |
| Chenango..... | 7,523 | 3,745 | 7,958 | 8,194 | 2,544 | 7,402 |
| Clinton..... | | | 8,193 | | | 9,601 |
| Columbia..... | 8,256 | 2,615 | 11,175 | 7,484 | 1,992 | 7,607 |
| Cortland..... | 4,137 | 2,534 | 6,673 | 6,890 | 951 | 5,500 |
| Delaware..... | | 2,092 | 9,274 | 9,586 | | 11,107 |
| Dutchess..... | 19,932 | 5,056 | 17,335 | | | |
| Erie..... | 99,662 | 35,735 | 95,156 | 107,845 | 32,308 | 100,000 |
| Essex..... | 5,604 | | 5,672 | 6,068 | | 6,000 |
| Franklin..... | 7,993 | 3,039 | 7,468 | 8,031 | 3,477 | 5,000 |
| Fulton..... | 10,469 | 3,270 | 8,684 | 10,145 | 3,563 | 9,000 |
| Genesee..... | 6,375 | 2,899 | 7,168 | 6,716 | 6,770 | 7,000 |
| Hamilton..... | 6,798 | 1,735 | 7,084 | 6,746 | 1,069 | 8,000 |
| Herkimer..... | 987 | 431 | 1,067 | 1,227 | 332 | 1,000 |
| Jefferson..... | | | | | | |
| Kings, see New York. | 14,234 | 4,635 | 14,796 | 15,271 | 2,692 | 8,000 |
| Lewis..... | 5,311 | 1,756 | 4,992 | 5,847 | 839 | 6,000 |
| Livingston..... | 8,060 | 3,829 | 8,129 | 6,779 | 3,146 | 6,000 |
| Madison..... | 7,416 | 2,773 | 8,354 | 8,024 | 1,461 | 9,000 |
| Monroe..... | 58,077 | 16,723 | 53,606 | 59,639 | 10,755 | 56,000 |
| Montgomery..... | | | | | | |
| Nassau..... | 12,894 | 6,999 | 17,516 | 16,076 | 5,404 | 17,000 |
| New York..... | 601,391 | 241,750 | 623,422 | 613,807 | 231,980 | 626,000 |
| Niagara..... | 21,108 | 7,370 | 19,306 | 22,102 | 7,645 | 21,000 |
| Oneida..... | 32,670 | 9,302 | 30,431 | 32,671 | 9,466 | 32,000 |
| Onondaga..... | 44,970 | 15,171 | 43,055 | 49,603 | 14,940 | 47,000 |
| Ontario..... | 12,297 | 3,822 | 10,580 | 11,588 | 5,199 | 11,000 |
| Orange..... | | 7,239 | | 24,728 | 13,642 | 24,000 |
| Orleans..... | 6,838 | 2,391 | 6,636 | 6,529 | | 6,000 |
| Oswego..... | 13,383 | 5,322 | 13,201 | 13,506 | | 17,000 |
| Otsego..... | | 3,349 | 10,508 | | 1,530 | 12,000 |
| Putnam..... | 2,226 | | 2,792 | 2,289 | | |
| Queens, see New York. | | | | | | |
| Rensselaer..... | | | | | | |
| Richmond, see New York. | | | | | | |
| Rockland..... | 9,152 | 2,660 | 8,372 | 8,657 | 2,136 | 8,000 |
| St. Lawrence..... | 9,576 | 5,430 | 16,734 | 15,662 | 7,662 | 13,000 |
| Saratoga..... | 1,300 | 5,180 | 13,310 | 14,553 | 4,659 | 13,000 |
| Schenectady..... | 19,782 | 5,489 | 18,333 | 20,523 | 5,777 | 18,000 |
| Schoharie..... | 4,970 | 2,423 | 6,177 | 5,717 | 1,340 | 6,000 |
| Schuyler..... | 3,276 | 1,402 | 3,103 | 3,424 | 351 | 3,000 |
| Seneca..... | 5,559 | 2,949 | 6,119 | 5,676 | 2,468 | 6,000 |
| Steuken..... | 18,186 | 2,845 | 15,136 | 22,423 | 7,488 | 19,000 |
| Suffolk..... | 10,362 | 5,713 | 18,765 | 16,852 | 5,801 | 18,000 |
| Sullivan..... | 6,822 | 2,223 | 7,354 | 7,021 | 1,998 | 8,000 |
| Tioga..... | 5,692 | 1,949 | 5,322 | 5,084 | 1,024 | 4,000 |
| Tompkins..... | 5,063 | 1,792 | 7,107 | 6,839 | 2,140 | 8,000 |
| Ulster..... | 15,133 | | 16,755 | 14,910 | | 14,000 |
| Warren..... | 6,735 | 2,379 | 6,974 | 7,218 | 1,768 | 6,000 |
| Washington..... | 11,200 | 4,713 | 10,906 | 11,153 | 4,497 | 11,000 |
| Wayne..... | 9,990 | 3,800 | 9,420 | | 3,920 | 11,000 |
| Westchester..... | 55,219 | 17,072 | 49,227 | 54,196 | 22,887 | 52,000 |
| Wyoming..... | 6,662 | 2,612 | 6,549 | 7,607 | 1,039 | 6,000 |
| Yates..... | 2,278 | 997 | 3,654 | 3,986 | 1,179 | 4,000 |
| Totals..... | 1,332,153 | 478,141 | 1,416,760 | 1,408,418 | 466,176 | 1,456,000 |

A

1914-1918, IN COUNTIES OF NEW YORK STATE. Prepared by
Librarian, New York State Library.

| 1916 | | | 1917 | | | 1918 | | |
|-----------------|---------------------|---------------------|-----------------|---------------------|---------------------|------------------|---------------------|---------------------|
| Enroll-
ment | Primary
election | General
election | Enroll-
ment | Primary
election | General
election | Enroll-
ment | Primary
election | General
election |
| 46,224
9,808 | 22,258
2,229 | 46,393
10,436 | 46,224
9,634 | 11,353
1,115 | 43,120
8,684 | 68,431
13,665 | 29,472
4,877 | 65,612
11,368 |
| 15,057 | 6,729 | 21,716 | 22,321 | 9,875 | 18,089 | 30,975 | 16,883 | 20,228 |
| 13,129 | 3,733 | 16,661 | 16,234 | 4,609 | 14,358 | 19,896 | 8,949 | 16,792 |
| 10,874 | 5,216 | 14,410 | 15,804 | 2,980 | 12,726 | 18,019 | 4,918 | 17,698 |
| 12,154 | 7,359 | 24,132 | 25,509 | 7,620 | 19,064 | 32,866 | 13,396 | 25,679 |
| 7,853 | 3,686 | 14,927 | 15,437 | 2,669 | 13,785 | 17,405 | 4,381 | 18,862 |
| 9,084 | 4,427 | 8,741 | 9,790 | 2,832 | 6,282 | 11,452 | 5,505 | 11,567 |
| 8,073 | 3,690 | 9,313 | 9,084 | 2,874 | 6,033 | 11,805 | 3,906 | 8,132 |
| 6,430 | 2,412 | 9,443 | 8,933 | 1,839 | 8,620 | 10,401 | 2,256 | 13,812 |
| 10,980 | 2,469 | 7,773 | 7,889 | 2,305 | 6,851 | 10,966 | 3,601 | 9,703 |
| 21,140 | 3,767 | 11,770 | 10,900 | 2,936 | 10,968 | 16,020 | 6,315 | 14,726 |
| 113,477 | 31,634 | 109,993 | 113,477 | 38,593 | 111,474 | 163,028 | 37,424 | 123,125 |
| 7,065 | 1,923 | 6,326 | 6,930 | 2,159 | 4,946 | 9,399 | 4,435 | 7,388 |
| 6,354 | 2,982 | 9,407 | 9,198 | 2,604 | 4,480 | 9,708 | 2,023 | 8,800 |
| 10,955 | 4,869 | 10,579 | 11,387 | 2,817 | 9,267 | 12,970 | 3,876 | 11,701 |
| 7,065 | 3,311 | 8,705 | 8,415 | 2,239 | 7,888 | 10,752 | 4,123 | 9,756 |
| 7,550 | 3,654 | 7,669 | 7,482 | 1,528 | 7,409 | 9,100 | 1,977 | 9,148 |
| 1,191 | 600 | 1,121 | 1,228 | 463 | 851 | 1,469 | 362 | 1,055 |
| 16,828 | 5,525 | 19,486 | 10,731 | 4,386 | 12,774 | 19,422 | 5,668 | 15,742 |
| 6,249 | 1,710 | 6,246 | 6,249 | 1,586 | 6,308 | 8,125 | 1,309 | 6,758 |
| 8,892 | 3,393 | 9,020 | 9,097 | 1,198 | 4,968 | 9,614 | 3,278 | 9,762 |
| 9,353 | 4,389 | 9,393 | 9,846 | 3,612 | 8,442 | 14,236 | 2,880 | 11,978 |
| 64,672 | 16,426 | 62,638 | 70,075 | 8,817 | 57,071 | 91,853 | 27,742 | 79,727 |
| 13,187 | 6,088 | 12,181 | 12,312 | 3,066 | 11,525 | 16,116 | 5,582 | 16,094 |
| 17,101 | 8,213 | 22,849 | 20,529 | 4,984 | 14,788 | 22,999 | 7,559 | 25,594 |
| 672,622 | 186,190 | 714,766 | 738,349 | 6,830 | 691,809 | 979,872 | 230,054 | 961,437 |
| 23,562 | 6,806 | 22,191 | 24,586 | 6,235 | 20,012 | 29,202 | 6,580 | 24,163 |
| 35,251 | 11,880 | 36,556 | 36,238 | 6,235 | 35,171 | 47,850 | 17,285 | 45,819 |
| 64,073 | 9,685 | 50,738 | 54,973 | 13,485 | 48,880 | 62,307 | 25,457 | 68,520 |
| 13,079 | 3,482 | 13,229 | 13,701 | 1,285 | 11,514 | 18,453 | 7,023 | 16,674 |
| 26,057 | 6,514 | 25,010 | 26,047 | 4,791 | 26,543 | 30,600 | 10,360 | 27,429 |
| 7,884 | 7,767 | 7,767 | 7,884 | 5,583 | 5,583 | 8,549 | 3,576 | 7,217 |
| 14,936 | 4,161 | 767,621 | 18,152 | 3,924 | 15,206 | 24,040 | 6,814 | 21,200 |
| 2,220 | 457 | 12,497 | 12,353 | 4,080 | 11,913 | 16,607 | 4,739 | 15,029 |
| 28,324 | 2,571 | 2,553 | 2,553 | 2,553 | 2,553 | 4,096 | 2,476 | 4,075 |
| 29,779 | 8,261 | 26,387 | 39,765 | 11,775 | 42,016 | 14,265 | 3,422 | 14,265 |
| 9,095 | 2,565 | 9,825 | 9,491 | 1,983 | 9,131 | 10,986 | 3,422 | 14,265 |
| 18,000 | 11,080 | 20,071 | 19,960 | 4,921 | 15,857 | 26,625 | 8,774 | 23,396 |
| 15,286 | 7,099 | 14,086 | 15,238 | 5,895 | 12,560 | 21,909 | 8,287 | 20,772 |
| 21,635 | 8,593 | 19,919 | 21,615 | 7,289 | 17,411 | 23,720 | 7,938 | 23,556 |
| 5,798 | 2,516 | 6,644 | 6,030 | 1,342 | 6,612 | 9,617 | 2,260 | 7,990 |
| 3,209 | 2,003 | 3,757 | 3,106 | 1,054 | 3,913 | 4,147 | 1,549 | 4,740 |
| 6,352 | 2,185 | 6,618 | 6,401 | 2,113 | 6,316 | 9,609 | 2,561 | 8,545 |
| 19,654 | 4,337 | 19,792 | 20,390 | 2,714 | 10,853 | 26,853 | 11,227 | 23,931 |
| 15,301 | 5,876 | 21,917 | 19,403 | 5,422 | 14,648 | 21,446 | 9,362 | 32,696 |
| 6,704 | 1,896 | 7,517 | 7,275 | 1,226 | 7,145 | 9,970 | 2,697 | 9,673 |
| 6,641 | 1,939 | 6,482 | 6,635 | 1,468 | 3,803 | 7,735 | 3,106 | 8,130 |
| 7,539 | 2,119 | 9,075 | 9,240 | 2,097 | 7,907 | 10,344 | 2,430 | 10,550 |
| 14,893 | 17,344 | 14,893 | 14,893 | 15,725 | 18,501 | 18,501 | 20,566 | 20,566 |
| 7,494 | 2,941 | 7,228 | 7,941 | 2,224 | 6,007 | 8,335 | 3,375 | 8,494 |
| 11,786 | 5,435 | 11,601 | 11,702 | 2,786 | 10,396 | 16,593 | 7,688 | 13,614 |
| 12,469 | 3,485 | 12,717 | 12,032 | 1,546 | 9,913 | 17,507 | 3,429 | 12,502 |
| 58,666 | 17,121 | 56,033 | 61,315 | 14,787 | 57,816 | 73,828 | 19,425 | 74,898 |
| 8,008 | 3,423 | 7,289 | 8,001 | 655 | 6,485 | 11,480 | 2,039 | 8,749 |
| 4,616 | 1,586 | 4,842 | 4,705 | 1,337 | 4,039 | 8,051 | 3,756 | 6,150 |
| 1,576,535 | 478,119 | 2,454,571 | 1,766,576 | 245,095 | 1,584,123 | 2,306,447 | 653,825 | 2,195,441 |

EXHIBIT

**REPORT OF THE SPECIAL COMMITTEE OF THE NEW YORK STATE
of Conduct of Primary Elections for the Years**

| COUNTY | Cost for
1914 | Cost for
1915 |
|----------------------|------------------|------------------|
| 1 Albany..... | \$16,332 37 | \$20,837 55 |
| 2 Allegany..... | 3,815 00 | 3,815 00 |
| 3 Broome..... | 5,373 00 | 4,295 00 |
| 4 Cattaraugus..... | 2,876 40 | 2,772 00 |
| 5 Cayuga..... | 3,566 00 | 3,396 00 |
| 6 Chautauqua..... | 1,194 30 | 773 00 |
| 7 Chemung..... | 3,804 49 | 3,992 30 |
| 8 Chenango..... | 4,027 43 | 3,690 90 |
| 9 Clinton..... | 3,874 00 | 2,797 00 |
| 10 Columbia..... | 10,433 29 | 10,433 29 |
| 11 Cortland..... | 3,229 29 | 3,229 29 |
| 12 Delaware..... | 2,180 87 | 2,180 87 |
| 13 Dutchess..... | 4,306 03 | 4,311 00 |
| 14 Erie..... | 25,500 00 | 26,000 00 |
| 15 Essex..... | 2,659 00 | 2,799 00 |
| 16 Franklin..... | 2,627 00 | 2,781 00 |
| 17 Fulton..... | 3,211 59 | 2,782 00 |
| 18 Genesee..... | 4,015 00 | 3,901 00 |
| 19 Greene..... | 1,827 10 | 1,763 74 |
| 20 Hamilton..... | 1,023 19 | 1,112 42 |
| 21 Herkimer..... | 3,566 00 | 3,396 00 |
| 22 Jefferson..... | 4,616 00 | 4,616 00 |
| 23 Lewis..... | 3,205 63 | 3,289 75 |
| 24 Livingston..... | 3,117 99 | 2,974 40 |
| 25 Madison..... | 5,114 36 | 4,915 50 |
| 26 Monroe..... | 10,572 16 | 10,572 16 |
| 27 Montgomery..... | 2,734 00 | 1,698 00 |
| 28 Nassau..... | 10,582 41 | 11,853 79 |
| 29 Niagara..... | 7,900 00 | 8,400 00 |
| 30 Oneida..... | 12,440 65 | 15,023 40 |
| 31 Onondaga..... | 7,500 00 | 8,000 00 |
| 32 Ontario..... | 4,153 02 | 4,131 00 |
| 33 Orange..... | 9,817 07 | 9,000 00 |
| 34 Orleans..... | 1,600 00 | 1,600 00 |
| 35 Oswego..... | 2,800 00 | 2,754 00 |
| 36 Otsego..... | 5,023 33 | 4,733 24 |
| 37 Putnam..... | 1,107 80 | 1,107 00 |
| 38 Rensselaer..... | 8,852 00 | 15,955 00 |
| 39 Rockland..... | 3,847 00 | 4,200 00 |
| 40 St. Lawrence..... | 6,200 00 | 4,500 00 |
| 41 Saratoga..... | 3,293 00 | 3,293 00 |
| 42 Schenectady..... | 4,790 17 | 4,687 00 |
| 43 Schoharie..... | 2,931 50 | 2,931 50 |
| 44 Schuyler..... | 1,689 00 | 1,740 00 |
| 45 Seneca..... | 3,829 11 | 3,562 00 |
| 46 Steuben..... | 2,300 00 | 2,339 00 |
| 47 Suffolk..... | 8,574 72 | 8,855 00 |
| 48 Sullivan..... | 5,412 07 | 5,412 07 |
| 49 Tioga..... | 2,538 83 | 2,603 00 |
| 50 Tompkins..... | 3,235 59 | 2,671 00 |
| 51 Ulster..... | 5,061 00 | 5,706 00 |
| 52 Warren..... | 2,219 00 | 1,963 00 |
| 53 Washington..... | 3,482 03 | 3,455 00 |
| 54 Wayne..... | 3,768 88 | 3,526 00 |
| 55 Westchester..... | 11,171 73 | 17,918 77 |
| 56 Wyoming..... | 1,834 55 | 1,630 00 |
| 57 Yates..... | 778 00 | 663 00 |
| 58 Bronx..... | | |
| Kings..... | | |
| New York..... | 199,588 04 | 219,638 00 |
| Queens..... | | |
| Richmond..... | | |
| Totals..... | \$487,121 99 | \$540,995 41 |

B

SENATE, 1918, HON. CHARLES D. NEWTON, CHAIRMAN. Cost
1914, 1915, 1916 and 1917 by Counties.

| COST FOR PRESIDENTIAL
YEAR, 1916 | | Cost for
1917 | Vote, 1916 | Vote, 1917 | Population
1915 | PER VOTE | |
|-------------------------------------|--------------|------------------|------------|------------|--------------------|----------|--------|
| Spring | Fall | | | | | 1916 | 1917 |
| \$18,635 66 | \$21,422 69 | \$17,831 48 | 21,561 | 11,335 | 183,330 | \$0 99 | \$1 57 |
| 3,815 00 | 3,815 00 | 3,815 00 | 2,294 | 1,076 | 40,216 | 1 66 | 3 54 |
| 4,063 00 | 4,063 00 | 5,060 00 | 6,890 | 10,955 | 90,641 | 59 | 46 |
| 2,769 90 | 2,805 36 | 1,721 01 | 3,361 | 3,532 | 72,756 | 83 | 48 |
| 3,026 00 | 2,754 00 | 2,892 00 | 5,211 | 2,965 | 65,751 | 52 | 94 |
| 769 53 | 659 10 | 459 77 | 7,188 | 6,910 | 116,818 | 09 | 06 |
| 4,003 17 | 4,003 18 | 3,223 35 | 3,273 | 2,555 | 59,017 | 1 22 | 1 26 |
| 3,249 79 | 3,249 78 | 3,778 33 | 3,572 | 2,806 | 36,648 | 91 | 1 34 |
| 2,828 00 | 2,848 00 | 2,347 00 | 3,024 | 2,814 | 47,561 | 94 | 70 |
| 8,677 17 | 8,677 17 | 11,583 07 | 2,501 | 1,831 | 44,111 | 3 46 | 6 32 |
| 2,732 66 | 2,732 66 | 2,762 37 | 2,453 | 2,106 | 30,074 | 1 11 | 1 31 |
| 2,180 87 | 2,180 87 | 2,180 87 | 3,673 | 2,954 | 45,995 | 59 | 74 |
| 3,941 78 | 3,941 78 | 3,665 69 | 4,126 | 2,424 | 91,044 | 95 | 1 51 |
| 27,200 00 | 27,200 00 | 18,406 94 | 27,487 | 38,063 | 571,897 | 99 | 48 |
| 2,587 40 | 2,587 40 | 1,755 90 | 1,770 | 2,147 | 32,461 | 1 46 | 82 |
| 2,396 00 | 2,484 00 | 1,925 00 | 2,438 | 2,568 | 46,181 | 1 02 | 75 |
| 3,125 64 | 3,125 65 | 2,448 62 | 4,738 | 2,601 | 45,625 | 66 | 94 |
| 3,512 00 | 3,512 00 | 3,352 00 | 3,340 | 2,319 | 40,707 | 1 05 | 1 44 |
| 1,317 95 | 1,454 45 | 1,797 15 | 1,896 | 760 | 30,091 | 1 76 | 2 36 |
| 1,034 18 | 1,034 18 | 1,000 00 | 584 | 460 | 4,491 | 1 74 | 2 17 |
| 3,026 00 | 2,754 00 | 2,802 00 | 4,684 | 2,646 | 64,109 | 59 | 1 05 |
| 4,616 00 | 4,616 00 | 4,616 00 | 5,442 | 4,306 | 81,009 | 85 | 1 07 |
| 3,070 17 | 3,070 16 | 3,118 15 | 1,478 | 1,566 | 25,947 | 2 08 | 1 99 |
| 2,606 41 | 2,606 41 | 2,258 38 | 2,988 | 700 | 38,427 | 87 | 3 22 |
| 4,117 81 | 4,117 81 | 3,983 75 | 3,800 | 2,170 | 41,742 | 1 08 | 1 83 |
| 10,572 16 | 12,572 16 | 10,572 16 | 15,311 | 8,798 | 319,310 | 82 | 1 20 |
| 2,210 00 | 2,210 00 | 2,584 00 | 5,401 | 3,287 | 61,030 | 40 | 78 |
| 11,744 09 | 12,644 21 | 8,619 99 | 7,351 | 4,969 | 116,825 | 1 72 | 1 73 |
| 7,230 00 | 7,930 00 | 6,200 00 | 6,252 | 6,796 | 108,550 | 1 27 | 91 |
| 5,038 08 | 7,350 04 | 7,548 08 | 10,656 | 5,046 | 167,331 | 69 | 1 50 |
| 6,000 00 | 8,300 00 | 8,500 00 | 8,708 | 13,409 | 213,992 | 95 | 63 |
| 4,110 20 | 4,110 20 | 3,386 79 | 3,241 | 1,058 | 54,628 | 1 27 | 3 20 |
| 7,392 42 | 7,392 41 | 6,628 80 | 6,418 | 4,745 | 118,118 | 1 15 | 1 39 |
| 1,588 25 | 1,588 25 | 1,811 85 | 3,490 | 1,901 | 33,919 | 45 | 95 |
| 3,058 56 | 2,846 73 | 2,740 38 | 3,640 | 2,294 | 75,929 | 78 | 1 19 |
| 3,543 99 | 3,543 98 | 4,352 45 | 3,718 | 3,760 | 48,534 | 95 | 1 10 |
| 1,107 80 | 1,107 80 | 1,107 80 | 659 | 752 | 12,767 | 1 68 | 1 47 |
| 15,500 00 | 15,418 19 | 2,488 57 | 8,473 | 8,062 | 121,330 | 1 82 | 30 |
| 4,040 00 | 4,040 00 | 2,677 00 | 2,556 | 1,939 | 46,903 | 1 57 | 1 38 |
| 2,050 00 | 2,050 00 | 2,600 00 | 5,718 | 4,807 | 90,291 | 36 | 54 |
| 3,630 00 | 3,630 00 | 3,220 00 | 7,006 | 5,855 | 62,982 | 51 | 55 |
| 4,556 98 | 5,788 00 | 4,905 65 | 7,369 | 7,178 | 98,625 | 78 | 68 |
| 2,931 50 | 2,931 50 | 2,931 50 | 2,060 | 1,252 | 23,005 | 1 42 | 2 32 |
| 1,383 00 | 1,383 00 | 1,465 33 | 903 | 1,023 | 13,954 | 1 53 | 1 43 |
| 3,289 12 | 3,652 09 | 1,938 12 | 1,958 | 2,087 | 25,249 | 1 86 | 93 |
| 1,907 68 | 2,460 09 | 1,661 59 | 4,061 | 2,680 | 83,630 | 90 | 62 |
| 5,548 16 | 5,548 15 | 5,162 00 | 5,810 | 5,393 | 104,342 | 95 | 1 04 |
| 5,412 07 | 5,412 07 | 4,794 30 | 1,661 | 1,220 | 38,189 | 3 25 | 3 93 |
| 2,264 67 | 2,400 88 | 1,899 58 | 1,704 | 1,449 | 25,549 | 1 40 | 1 31 |
| 2,069 12 | 2,595 19 | 2,159 23 | 1,926 | 2,055 | 36,535 | 1 35 | 1 05 |
| 5,868 00 | 5,371 00 | 3,267 00 | 4,711 | 2,104 | 85,367 | 1 14 | 1 55 |
| 1,828 00 | 1,940 00 | 1,675 00 | 2,923 | 2,065 | 32,977 | 66 | 81 |
| 3,603 86 | 3,603 87 | 2,860 41 | 5,017 | 2,769 | 46,955 | 71 | 1 03 |
| 3,846 74 | 3,846 73 | 2,674 44 | 3,446 | 1,526 | 53,476 | 1 11 | 1 75 |
| 18,000 00 | 23,000 00 | 20,787 92 | 17,008 | 14,767 | 321,713 | 1 35 | 1 40 |
| 1,650 00 | 1,643 80 | 1,056 88 | 2,977 | 652 | 33,028 | 55 | 1 62 |
| 635 05 | 635 06 | 571 58 | 1,559 | 1,525 | 18,841 | 41 | 37 |
| 215,000 00 | 215,357 90 | 146,071 98 | 184,108 | 174,145 | 5,047,221 | 1 17 | 83 |
| \$487,911 61 | \$506,015 95 | \$389,614 21 | 477,579 | 415,949 | 9,687,744 | \$1 04 | \$1 38 |
| Average per county..... | | | | | | \$1 04 | \$1 38 |

EXHIBIT C

DIGEST OF THE LAWS OF THE VARIOUS STATES RELATING TO NOMINATION OF CANDIDATES BY DIRECT PRIMARIES, BY A STATE CONVENTION, AND BY A JUDICIAL CONVENTION. Prepared by William E. Hannan, Legislative Reference Librarian. February, 1919, Revised to date by C. Eveleen Hathaway. Library Assistant, New York State Library.

| STATE | Candidates nominated at direct primaries | Candidates nominated at a State convention |
|--|--|---|
| Alabama, General Laws 1911, § 4, p. 423. | Candidates for all elective offices, congressional, State, judicial, county, city and precinct, also presidential electors. | |
| Alaska, Laws 1919, ch. 39. | Candidates for delegate to congress, all candidates for any other elective, territorial, or dismial office soon or hereafter created by Act of Congress. | |
| Arizona, Revised Statutes 1913, § 3010. | Candidates for all elective or advisory elective, senatorial, congressional State, judicial, county and precinct offices, may nominate by petition. | |
| Arkansas, Digest of Statutes 1904, § 2777, Annotated Statutes 1911, § 2892a, Act 1919, act 19. | Candidates for the congress of the United States and all elective State, district, county, township or municipal office. May nominate by petition. | Nomination of candidates may be made by delegate convention. County convention selects delegate and alternates to all conventions, except State central committee may make rules for election of delegates to national convention. |
| California, statutes and amendments to the Codes 1917, ch. 711, §§ 2, 5, 24. | All candidates for elective public offices shall be nominated by direct vote. May nominate by petition. | Candidates for presidential electors. Convention composed of congressional and State candidates nominated at primary. |
| Colorado, Statutes 1911, v. 3, § 2401E, Supplement 1914, 2401EE. | Candidates for the congress of the United States and all elective State, district, city, county, city and county ward and precinct offices. May be nominated by petition. | Candidates for presidential electors chosen by assemblies of political parties. Delegates to assembly selected according to rules and regulations of respective political parties. |
| Connecticut, General Statutes Revision 1918, v. 1, §§ 582, 697. | Candidates may be nominated at any caucus or primary to be supported at any State, municipal or town election. | Candidates for office may be nominated by party convention. Delegates to conventions chosen by caucus or primary. |
| Delaware, Revised Code 1915, §§ 1678, 1679. | Candidates nominated or selected at primary elections. | Candidates may be selected at party convention. Delegates convention selected at primary |
| Florida, Compiled Laws 1914, v. 1, § 277c. | All candidates for all elective State, congressional and county offices and United States senator, members of State, congressional and county executive committees. | |
| Georgia, Laws 1917, §§ 1, 6, pp. 184, 189. | Candidates for the congress of the United States and all elective State, district and county offices. | |
| Idaho, Laws 1919, ch. 107, §§ 3, 5, 9. | Candidates for county offices, district judges, judges of judicial districts, precinct committee men and delegates to county convention are elected at primary. | Delegates to State convention member to committee are chosen by county convention. Delegates to county convention chosen at primary. United States senator, representatives in congress, elective State officers and presidential electors nominated at State convention. |
| Illinois, Callaghan's Illinois Laws 1920, pp. 866-867, 870-873. | Candidates of political parties for all elective State offices (except trustees of University of Illinois), representatives in congress, county judge, probate judge, county clerk, private clerk, clerk of the circuit court, clerk of superior court of Cook county, | Nomination of all other candidates for State, congressional, county, city and district offices by political parties shall be made by conventions of delegates. Delegates to national convention selected at State conventions. |

EXHIBIT C — (Continued)

| STATE | Candidates nominated at direct primaries | Candidates nominated at a State convention |
|---|--|---|
| Indiana, Annotated Statutes Supplement 1918, §§ 7055, 7065, 7068, 7085, 7086. | <p>recorder of deeds, county auditor, county treasurer, sheriff, trustees of sanitary districts, coroner, State's attorney, county superintendent of schools, county surveyor, county commissioners in counties of first and second class not under township organization, members of board of assessors, board of review, presidents of boards of sanitary districts, county commissioners of Cook county, president of county board of Cook county, clerk of Criminal Court of Cook county, city officer in cities having population of 5,000 or more, township officers in townships coextensive with cities and incorporated towns or villages having a population of 5,000 or more, nominated at primary. Delegates from congressional districts to national nominating convention elected at primary.</p> <p>All party candidates except those for presidential electors and except officers to be voted for by all electors of State are nominated at the primary; precinct committeemen and delegates to State convention are also nominated at primary. A preferential vote is allowed at primary for president, vice-president, United States senator, and governor, if such candidates personally or through their representatives at least sixty days before primary, file a written request with secretary of State that their names be printed upon primary ballot. Results of each vote shall be certified to chairman of each party and shall be reported to convention by such chairman. In case candidate for president or vice-president has received a majority of votes of such party in such primary the delegates of such party to national convention shall be instructed and it shall be their duty to cast their votes as a unit for such candidates as long as his or their names shall be before such convention. In case a candidate for governor or United States senator receives a majority of votes of such party at such primary such candidate shall be declared by such convention to be the nominee of such party for such office. In case no candidate for such office receives such majority, such preferential vote shall be disregarded.</p> <p>Candidates for all offices including the office of judge of the supreme, district and superior courts. May be nominated by independent petition but cannot use name of regular political party.</p> | <p>presidential electors nominated at the same. Congressional conventions recommend candidate for presidential electors to State conventions. Delegates to State, judicial and other district conventions are selected by county conventions. Members of county conventions the same as of the county central committee which consists of the various precinct, ward or district committeemen of such party in county.</p> <p>State convention shall nominate candidates of such party for all State offices except only in case of governor and United States senator, when a nomination has been made by preferential vote. Such convention shall also nominate candidates for presidential electors, alternate electors, and it shall elect the delegates and alternate delegates of such party to its national convention. Delegates to State conventions are nominated at primary.</p> <p>Candidate for any State office or office of United States senator, when such candidates failed to receive 35 per cent of all votes cast, are nominated by State convention. Same applies to State senator and congressman who in such cases are to be nominated by district convention. Delegates to State conventions elected by county conventions. Delegates to county conventions and national conventions elected at primary.</p> |
| Iowa, Code Supplement 1813, §§ 1087-a1, 1087-a27, 1087-a36, 1087-b. | | |

EXHIBIT C — (Continued)

| STATE | Candidates nominated at direct primaries | Candidates nominated at a State convention |
|---|--|--|
| Kansas General Statutes 1915, § 4173. | All candidates for elective offices may be nominated by independent petition. | |
| Kentucky, Statutes 1915, v. 1, § 1550, Acts 1920, ch. 72. | All candidates for elective offices may be nominated by independent petition. Political party having constituted authority for government and regulation, and which at last preceding election at which presidential electors were voted for cast at least 20 per cent of total vote, shall have power to prescribe method of nominating candidates for governor, lieutenant-governor, secretary of state, attorney-general, auditor of public accounts, State treasurer, commissioner of agriculture, labor and statistics, superintendent of public instruction, clerk of court of appeals and United States senators. | |
| Louisiana, Acts 1916, § 1, p. 67. | Candidates for the congress of the U. S., all State, district, parochial and ward offices. | |
| Maine, Revised Statutes 1916, § 1, p. 129. | All candidates for any State or county office including U. S. senator, member of congress and the State legislature. May be nominated by independent petition. | |
| Maryland, Annotated Code 1914, v. 3, §§ 43, 178, pp. 544, 564-566. | All candidates for public office, judges and candidates for the house of representatives of the Federal Congress, may be nominated by independent petition, this latter method may apply to U. S. senator. | County convention of Howard county to nominate candidates for county offices, State senate and members of house of delegates. State convention to nominate candidates for governor, attorney-general, comptroller, clerk of court of appeals, U. S. senator and presidential electors. Delegates to conventions elected at primary. |
| Massachusetts, Acts and Resolves 1913, ch. 835, §§ 113, 138, 192, 195, 198, pp. 938, 1011, 1012. | Candidates for all offices to be filled at a State election except presidential election. May be nominated by independent petition. | Each party may, at * * * caucuses or conventions make nominations of candidates for each office to be filled by election in the commonwealth and have names of such candidates placed on the official ballot. Presidential electors nominated by party convention. Delegates to conventions chosen at caucus. Delegates to national convention chosen by direct plurality vote in primary. |
| Michigan, Public Acts 1919, No. 400, §§ 16-18, 42-43. | Party candidates for governor, lieutenant-governor, United States senator, United States representatives, State senators, and representatives, delegates to county convention for electing delegates to State convention, candidates for county offices, circuit judge, city offices in cities where act is applicable. | Candidates for State offices nominated by State convention, comprised of delegates chosen by county conventions. Delegate to county convention chosen at primary. |
| Minnesota, General Statutes 1913, § 362, Statutes Supplement 1917, § 335, Extra session 1919, ch. 27. | Candidates for all elective offices in the State, except officers of towns, villages and cities of third and fourth class and members of school, park and library boards in cities less than 100,000 in population, and presidential electors. May nominate by independent petition. | Candidates whose nominations are not required to be made by a primary election may be nominated by a delegate convention called for that purpose. Presidential electors nominated by delegate convention. Delegates to convention elected at primary. |
| Mississippi, Annotated Code 1917, v. 2, §§ 6388, 6390. | All nominations for State, district, county and county district offices shall be made by primary elections. | A State convention shall nominate presidential electors. Delegates to State convention selected by county delegate conventions. Delegates to county delegate convention elected to represent precincts. |

EXHIBIT C —(Continued)

| STATE | Candidates nominated at direct primaries | Candidates nominated at a State convention |
|--|--|--|
| Missouri. Revised Statutes 1909, v. 2. §§ 5855, 5884. | All candidates for elective offices. Not to apply to special elections to fill vacancies to county superintendent of schools to city officers not elected at a general State election, to town, villages or school district officers. | State committee may call a convention of delegates to nominate candidates for presidential electors and delegates to national conventions. State committee may prescribe manner in which delegates to convention are apportioned, chosen or elected. |
| Montana. Laws 1919, ch. 113, § 1. | Candidates of political parties for county, township and municipal offices, delegates to the State convention and State, county or municipal committeemen shall be nominated by a primary. | Candidates for United States senator and United States representatives, all candidates for State offices, nominated at State convention. Delegates to such convention nominated at primary. See footnote for judicial congressional convention. |
| Nebraska. Revised Statutes 1913, §§ 2139, 2140; Laws 1917, ch. 33, § 2207, p. 104. | All candidates for elective offices. Candidates may be nominated by petition. | Delegates to State convention shall select electors of president and vice president. Delegates to State convention selected by delegate county convention. |
| Nevada. Statutes 1917, ch. 155, §§ 3, 30, 31, pp. 277-287. | All candidates for State offices, United States senator, representative in congress and presidential electors. Candidates may be nominated by petition. | Party convention to nominate presidential electors. State convention consists of nominees of each party for offices of governor, councilors, State senators, representatives and State delegates. |
| New Hampshire. Public Statutes and Session Laws 1901-1913, pp. 49, 56. | All candidates for elective offices and State delegates. | Party conventions to nominate presidential electors. Delegates to State convention elected at primary. |
| New Jersey. Laws 1920, ch. 349, pp. 618, 672-673. | Candidates for all public offices except electors of president and vice-president shall be nominated directly by petition or at the primary. Delegates and alternates to State convention shall be elected at primary and members of State, county and municipal committees of political parties shall be chosen at primary. | |
| New Mexico. Statutes 1915, § 1995. | ..... | Candidates nominated by party conventions. |
| New York. Consolidated Laws 1917, v. 2, 2d ed., §§ 38, 45, 54, 122, 123, pp. 2419, 2421, 2428, 2457, 2458. | For all offices except town, village and school district offices and presidential electors. May nominate by independent petition. | Electors for president and vice-president nominated by the State committees. Members of State and county committees elected at primaries. |
| North Carolina. Public Laws 1915, ch. 101, §§ 4, 14, pp. 156, 162. | All candidates for elective State offices, United States senator, member of congress, county offices. | |
| North Dakota. Compiled Laws 1913, § 852; Laws 1919, ch. 118. | All candidates for congress, State offices, county officers, district assessors, judges of the supreme and district courts, members of the legislature and county commissioners. | State central committees to nominate presidential electors. Members of State central committees chosen by county committee. County committee composed of precinct committeemen who are chosen at primary and one committeeman at large chosen by legislative nominees. |
| Ohio. General Code Supplement 1916, v. 2, §§ 4949, 4953, 4950. | All candidates for State offices, United States senator, member of house of representatives, district, county and municipal officers, delegates to State conventions. May nominate by petition. | Delegates to State convention to nominate presidential electors. Delegates chosen at primary. |
| Oklahoma. Revised Laws 1910, v. 1, §§ 3024, 3053, 3178. | All candidates for the various State, district, county, township and precinct offices. Presidential electors chosen. May nominate by independent petition. | |

EXHIBIT C —(Continued)

| STATE | Candidates nominated at direct primaries | Candidates nominated at a State convention |
|---|--|---|
| Oregon, Laws v. 2, 1910, § 3333; Laws 1911, ch. 5, p. 19; Laws 1913, ch. 106, p. 183; Laws 1915, ch. 242, p. 348. | Candidates for each public office. Preferential vote for delegates to national convention and for presidential electors allowed the qualified electors of each political party. May nominate by independent petition but shall not use name of any existing political party. | |
| Pennsylvania, Laws 1917, § 1, p. 247; Digest Supplement, v. 5, § 167, p. 6023. | All candidates for United States senator, representative in congress, State, county, city, ward, borough, township and school district offices. Delegates to national convention and State committeemen. May nominate by independent petition. | Nominees of each political party for president of the United States; nominate candidates for presidential electors. |
| Rhode Island, General Laws 1909, §§ 1, 4, 6, 8, pp. 97, 98. | All candidates may be nominated by nomination papers. State, city and town officers may be nominated by caucus. | Conventions of delegates may nominate presidential electors, representatives in congress, general officers of State and members of general assembly. |
| South Carolina, Acts 1915, §§ 282g, 292j, pp. 169-170. | All candidates for governor, lieutenant-governor and all State officers, solicitors, United States senators and congressmen and all county officers except masters, magistrates and supervisors of registration. | State committee shall nominate presidential electors. State committee chosen by county conventions, members of county conventions selected by party clubs in county, clubs organized in a township or ward. |
| South Dakota, Laws passed at first and second special sessions 1920, ch. 78, § 2, 14. | All party candidates for United States senators, representatives in congress, governor, county and legislative offices, all party delegates to political conventions, all precinct, county and State committeemen. | All State officers except governor including circuit and supreme court judges, together with presidential electors shall be nominated and all national committeemen and delegates to national party conventions shall be elected at party delegate State convention. Delegates to convention chosen at primary. |
| Tennessee, Public Acts 1917, ch. 118, § 1, p. 338. | All candidates for office, including members of the general assembly, governor, railroad commissioner and representatives and senators in congress. | |
| Texas, Complete Statutes 1920, §§ 3094, 3164, 3175a. | Candidates for governor and all State offices, for congress, district, and county offices. Delegates to national convention and presidential electors nominated at primary. May nominate by independent petition. | |
| Utah, Compiled Laws 1917, §§ 2183, 2183. | Candidates for public offices, except candidates for municipal offices in cities of the first and second class, may be nominated by certificates of nomination. | Any convention of delegates may nominate candidates for public office. Convention, an organized assemblage of voters or delegates representing political party. |
| Vermont, General Laws 1917, §§ 98, 131, 145. | Candidates for all State, congressional and county offices. Nominations may also be made by certificates of nominations. | State conventions shall nominate presidential electors. Members of State convention are nominees for State offices, State senators and representatives. |
| Virginia, Code of Virginia 1918, §§ 222-246, p. 96, 103. | All candidates for State, congressional, district, county and city offices may be at primary; authorities of party have power to decide method of nomination of candidates. | |
| Washington, Codes and Statutes, v. 2, § 4826; idem Supplement 1913, v. 3, § 4803. | All candidates for elective offices, either State, county, municipal, precinct or congressional. | State convention to provide for nomination of presidential electors. Members of State committee elected by county committee. Members of county committee elected at primary. Party organizations elect delegates to conventions. |
| West Virginia, Code Annotated, Supplement 1918, §§ 50a, 50vv. Acts 1919, ch. 78. | All candidates to be voted by the people except judiciary; may also nominate by independent petition. | State convention to select presidential electors nominate candidates for supreme court of appeals. For judicial convention, see footnote. |

EXHIBIT C —(Concluded)

| STATE | Candidates nominated at direct primaries | Candidates nominated at a State convention |
|---|---|--|
| Wisconsin. Statutes 1919, §§ 5.02, 5.20, 5.26. | All candidates for elective offices; may also nominate by independent petition. | State convention shall nominate presidential electors. Members of State convention are candidates for State offices and senators and assemblymen nominated at primaries and senators whose term of office extends beyond first Monday in January of next year. |
| Wyoming. Laws 1911, ch. 23, §§ 1, 36, 39, 40, 46, pp. 25, 37, 38. | All candidates for offices filled by direct vote of people and candidates for United States senator. May also nominate by independent petition, but shall not use name of any existing political party. | State convention shall nominate presidential electors. Delegates to State convention chosen by county conventions or county central committee. Members of county central committee chosen by primaries. |

Note Montana.— In any judicial or congressional district composed of more than one county at time of meeting of State convention, the delegates and alternate delegates to State convention shall comprise judicial congressional convention for district within which they are embraced. Judicial congressional conventions nominate, judicial and congressional candidates within respective judicial or congressional district.

Note West Virginia.— Judges of circuit courts nominated at judicial convention. Judges of common pleas, intermediate or criminal courts nominated at special convention for that purpose. State executive consists of two members from each senatorial district chosen by party voters in such district. This committee appoints three additional committeemen at large. Congressional executive committee and State senatorial executive committee, each to consist of one member from each county in respective districts, to be elected by party voters of such county. State convention of each political party called by chairman of State executive committee. County executive committee arranges for judicial convention to which one delegate from each magisterial district is appointed or elected. County executive committee calls convention of delegates elected or appointed to nominate judges of common pleas, intermediate or criminal courts.

STATE OF NEW YORK

ANNUAL REPORT

OF THE

State Racing Commission
1920



J. B. LYON ALBANY
COMPANY, PRINTERS
1921

STATE OF NEW YORK.

ALBANY, *March 22, 1921.*

To the Legislature:

Pursuant to law, the annual report of the State Racing Commission for the twelve months ended December 31, 1920, is herewith submitted.

Respectfully,

JAMES W. WADSWORTH,

Chairman.

HARRY F. SINCLAIR,

GEORGE W. LOFT,

Commissioners.

By the Commission:

JOSEPH A. REILLY,

Secretary.

ANNUAL REPORT

To the Legislature of the State of New York:

As required by the statute the State Racing Commission submits herewith its Annual Report for the year ending December 1, 1920.

This Commission was created in 1895 under the Racing Law (Ch. 570), which was enacted in that year for the improvement of the thoroughbred horse and for the careful regulation and control of the race-tracks in the State. The statute, as subsequently amended and now in force, is as follows — the sections being numbered here as they are numbered in the Membership Corporations Law, into which the Racing Law was codified in 1909:

CORPORATIONS FOR RAISING AND BREEDING AND IMPROVING THE BREED OF HORSES

§ 280. *Corporators.* Any number of persons, not less than five, may become a corporation for the purpose of raising and breeding and improving the breed of horses, with all the general powers of corporations created under the laws of this state, by making, signing, acknowledging and filing a certificate which shall contain:

1. The name of the proposed corporation.
2. The objects for which it is to be formed, including a statement as to whether it is proposed to exercise the particular powers conferred by section two hundred and eighty-two of this chapter, and specifying whether it is proposed to conduct trotting or running or steeplechase race meetings.
3. The amount and description of the capital stock.
4. The number of shares of which the capital stock shall consist, each of which shall not be less than five nor more than one hundred dollars.
5. The location of its principal business office.
6. Its duration, which shall not exceed fifty years.

7. The number of its directors, not less than five nor more than thirteen, who shall each be a stockholder having at least five shares of stock.

8. The names and post-office addresses of the directors for the first year.

9. The post-office addresses of the subscribers and a statement of the number of shares of stock which each agrees to take in the corporation.

No certificate of incorporation under this section wherein the right to conduct running or steeplechase race meetings is claimed, shall hereafter be filed without the approval of the state racing commission indorsed therein or annexed thereto, stating that, in its opinion, the purposes of this article and the public interests will be promoted by such incorporation, and that such incorporation will be conducive to the interests of legitimate racing.

§ 281. *Restriction upon commencement of business.* No corporation organized under the provisions of this article shall engage in the prosecution or management of its business until the whole of its capital stock shall have been subscribed, nor until it shall have filed in the offices where its certificates of incorporation were filed, a further certificate stating that the whole of its capital stock has been in good faith subscribed, executed and acknowledged by its president or vice-president and treasurer or secretary, and verified by them to the effect that the statements contained in it are true.

§ 282. *Right to hold race meetings and races.* Any corporation formed under the provisions of this article, if so claimed in its certificate of organization, and if it shall comply with all the provisions of this article, and any other corporation entitled to the benefits and privileges of this article as hereinafter provided, shall have the power and right to hold one or more trotting or running race meetings in each year, and to hold, maintain and conduct trotting or running races at such meetings. At such trotting or running race meetings the corporation, or the owners of horses engaged in such races, or others who are not participants in the race, may contribute purses, prizes, premiums or stakes to be contested for, but no person or persons other than the owner or owners of a horse or horses contesting in a race shall have any

pecuniary interest in a purse, prize premium or stake contested for in such race, or be entitled to or receive any portion thereof after such race is finished, and the whole of such purse, prize, premium or stake shall be allotted in accordance with the terms and conditions of such race. Such meetings shall not be held except during the period extending from the fifteenth day of April to the fifteenth day of November, inclusive, in each year, nor upon any running course for more than forty days, nor upon any trotting course for more than fifteen days, nor upon any steeplechase course for more than five days, within such period. No races are authorized or shall be permitted except during such period nor except between sunrise and sunset.

§ 283. *Certificate of payment of stock.* Except as provided in this article, no corporation or association hereafter organized under this article or heretofore organized in pursuance of law for any purpose authorized by this article, shall have any of the powers conferred by section two hundred and eighty-two hereof until it shall have filed in the office or offices where its certificate of incorporation was filed, a further certificate stating that its capital stock has been fully paid in in cash, and if claiming the right to conduct running race meetings, that it actually maintains a race track of not less than one mile in length or circumference, the location of which shall be specified in such certificate. If such corporation or association was organized after the first day of February, nineteen hundred and two, and it claims the right to conduct running race meetings, the certificate must also have indorsed thereon, or annexed thereto, the approval of the State Racing Commission. Such certificate shall be executed and acknowledged by its president or vice-president and its treasurer or secretary, and verified by them to the effect that the statements contained in it are true. In the case of racing courses to be used for running races or steeplechases, a license from the State Racing Commission must also be obtained in the manner hereinafter provided, and such license be filed with such certificate.

§ 284. *Additional certificates by existing corporations.* 1. Any corporation heretofore or hereafter formed under the laws of the State for raising, breeding or improving the breed of horses or formed or entitled to the benefits or privileges of an act, entitled

"An act for the incorporation of associations for the improvement of the breed of horses and to regulate the same and to establish a State Racing Commission," upon filing a certificate that its capital stock has been fully paid in in cash or property in accordance with the provisions of the law in force at the time of issuance thereof, shall be deemed to have complied with the requirement of any statute or statutes of this State, providing for the filing of a certificate that the capital stock of such corporation has been fully paid in in cash, or requiring the filing of such certificates as one of the conditions upon which any rights or privileges may be obtained under or pursuant to such statute or statutes.

2. Such corporation, its officers, directors and trustees, shall be subject to all other provisions of such statute or statutes, and subject to the conditions and restrictions thereof, shall be entitled to obtain and enjoy all the benefits and privileges thereof with the same force and effect as if such corporation were created by or pursuant to the provisions of such statute or statutes.

[The foregoing section was originally chapter 573 of the Laws of 1895, and was enacted to cover the racing corporations in existence on May 9, 1895.]

§ 285. *State Racing Commission.* There shall hereafter be a State Racing Commission, consisting of three persons to be appointed by the Governor, and who shall hold office for the term of five years, no two of whom shall be members of the same racing association. They shall receive no compensation for their services, but shall be paid their necessary traveling and other expenses. Such commission shall appoint a secretary who shall serve during their pleasure and whose duty it shall be to keep a full and faithful record of the proceedings of such commission, preserve at the general office of such commission all books, maps, documents and papers entrusted to his care, prepare for service such papers and notices as may be required of him by the commission, and perform such other duties as the commission may prescribe. He shall have the power, under the direction of the commission, to issue subpoenas for witnesses and to administer oaths in all cases pertaining to the duties of his office. The total annual expenses of the State Racing Commission, including the

salary of the secretary, shall not exceed the sum of five thousand dollars. Such expenses shall be paid by the several racing or steeplechase corporations or associations, owning or operating such race tracks, to be apportioned by the Comptroller, who shall, on or before the first day of December in each year, assess upon each of such corporations or associations its just proportion of such expenses, and such assessment shall be collected in the manner provided by law for the collection of taxes upon corporations. Such commission shall annually make a full report to the Legislature of its proceedings for the year ending with the first day of the preceding December, and such suggestions and recommendations as it shall deem desirable.

§ 286. *License for running races and steeplechases.* Any corporation or association desiring to obtain the benefits of the provisions of section two hundred and eighty-two of this article, if proposing to conduct a race-course or race meeting for running races or steeplechases, may annually apply to the State Racing Commission for a license to conduct running races and race meetings or steeplechases and steeplechase meetings, as the case may be. If, in the judgment of such commission, a proper case for the issuance of such license is shown, it may grant such license for a term of one year. Every such license shall contain a condition that all running races or race meetings conducted thereunder shall be subject to the reasonable rules and regulations, from time to time prescribed by the Jockey Club, a corporation organized under the laws of the State of New York, and that all steeplechase meetings or steeplechases shall be subject to the reasonable rules and regulations from time to time prescribed by the National Steeplechase Association, a corporation organized under the laws of the State of New York. Any rule or regulation of such Jockey Club or National Steeplechase Association may be modified or abrogated by the State Racing Commission, on giving such Jockey Club or National Steeplechase Association an opportunity to be heard.

§ 287. *Revocation of licenses.* If any corporation or association to which a license shall be granted shall fail or refuse to comply with the provisions of this article, or with the terms and conditions of its license, or if for any other reason the continu-

ance of such license shall not be deemed conducive to the interests of legitimate racing, the said commission, upon the complaint of the said Jockey Club, in the case of race-courses to be used for running races, or upon the complaint of the said National Steeplechase Association, in the case of race-courses to be used for steeplechases, shall have the power to cancel and revoke such license. Written notice of such complaint shall be given to such corporation or association by said State Racing Commission within five days after receiving such complaint, which notice shall specify a time and place of hearing thereon. If the commission cancels and revokes such license all powers exercised under section two hundred and eighty-two of this article by the corporation or association to which such license was granted shall cease and determine.

§ 288. *Trotting and fair associations, when entitled to privileges.* Any trotting association, incorporated under the laws of the State of New York, and any state, county or other fair association shall be entitled to the privileges conferred by section two hundred and eighty-two of this article upon filing in the offices wherein its certificates of incorporation are filed a certificate which shall set forth its intention to avail itself of such privileges; and any such trotting association, or state, county or other fair association shall not be required to obtain any license or file any other certificate. State, county and other fair associations entitled to conduct trotting races under the provisions of this article may also conduct running races in connection therewith, under the same provisions, and the provisions of this article requiring a race track to be of specified dimensions shall not apply to such association; but no running races shall be conducted for more than five days on any track or grounds, unless the license of the State Racing Commission therefor is first obtained.

§ 289. *Notices to be posted upon grounds.* Every corporation to be organized under this article or which shall be entitled to exercise any of the powers conferred by section two hundred and eighty-two shall cause to be properly posted in conspicuous positions upon the grounds whereon such races are held, printed notices or placards in large and legible type, which notices or placards shall be to the effect that all disorderly conduct, pool-

selling, book-making or any other kind of gambling is prohibited, and such notices or placards shall contain a copy of section nine hundred and eighty-six of the penal law.

§ 290. *Special Policemen.* For the purpose of preserving order and preventing offenses against the laws prohibiting gambling, the trustees or directors of any corporation created under the provisions of this article are hereby authorized to appoint from time to time five or more special policemen, and the same to remove at pleasure, who, when appointed, shall be police officers with the same powers within and about such grounds as are vested in constables of the town where such grounds are located, whose duty, when appointed, shall be to preserve order within and around the grounds, and race-tracks of said corporation, to protect the property within said grounds, to eject or arrest all persons who shall be improperly within the grounds of such corporation or who shall be guilty of disorderly conduct, or who shall neglect or refuse to pay the fees or to observe the rules prescribed by said corporation; and it shall be the further duty of said policemen, when appointed, to prevent all violations of law with reference to pool-selling, book-making and other gambling, and to arrest any and all persons violating such provisions, and to convey such person or persons so arrested, with a statement of the cause of such arrest, before a magistrate having jurisdiction of such offense, to be dealt with according to law. The appointment of policemen in pursuance of this section shall not be deemed to supersede in any wise on the grounds and race-track of such corporation the authority of peace officers of the jurisdiction within which such grounds and race-track are located.

§ 296. *Penalty for unlawful racing and betting.* All racing or trials of speed between horses or other animals for any bet, stake or reward, except such as is allowed by this article or by special laws, is a public nuisance; and every person acting or aiding therein, or making or being interested in such bet, stake or reward is guilty of a misdemeanor and upon conviction is punishable by imprisonment in the county jail or penitentiary for a period of not more than one year; and in addition to the penalty prescribed therefor he forfeits to the people of this State all title or interest in any animal used with his privy in such

race or trial of speed, and in any sum of money or other property betted or staked upon the result thereof.

§ 297. *Increased or additional entrance fees.* A corporation or association authorized by or entitled to the benefits of this article, conducting a running or trotting or steeplechase meeting, shall have the right to charge increased or additional entrance fees for admission to any special portion or portions of the grounds of such corporation or association unless such pool-selling or book-making as is punishable by fine or imprisonment, or other acts so punishable, be thereon authorized or knowingly permitted.

The foregoing is the statute under which all thoroughbred racing is conducted now in this State. The portion of the Act of 1895 imposing a tax on the gross receipts of the running race-meetings for the benefit of the agricultural fairs was repealed in 1910. No amendments to this law were passed in 1920. The present powers and duties of the Commission are stated in sections 280, 283, and 285 to 287, inclusive, above set out.

LICENSES GRANTED AND MEETINGS HELD

Pursuant to the terms of the statute the commission granted licenses during the year 1920 to the following racing associations, to hold running-race and steeplechase meetings, viz.: Metropolitan Jockey Club, Westchester Racing Association, Queens County Jockey Club, Empire City Racing Association, Saratoga Association for the Improvement of the Breed of Horses and United Hunts Racing Association; and under our licenses race meetings were held as follows:

| | |
|---|---------|
| Metropolitan Jockey Club (Jamaica)..... | 29 days |
| Westchester Racing Association (Belmont Park). | 30 days |
| Queens County Jockey Club (Aqueduct)..... | 30 days |
| Empire City Racing Association (Yonkers)..... | 29 days |
| Saratoga Racing Association (Saratoga Springs). | 26 days |
| United Hunts Racing Association..... | 2 days |

146 days

The total number of days' racing in 1919 was 145; in 1918 it was 128; it was 107 in 1916, and 67 in 1913.

The purses and prizes offered and awarded in 1920 reached the sum of \$1,715,507 — being an increase of more than \$380,507 over the figures of 1919 — as against \$650,000 in 1916 and \$335,000 in 1913.

The thoroughbred yearlings which were sold in the State at public auction during the year — so far as we have records thereof — two hundred and eighty-seven yearlings brought a grand total sum of \$619,300, or an average price of \$2,150 each.

THE JOCKEY CLUB'S BREEDING BUREAU.

The Jockey Club continues to maintain the Breeding Bureau which it began in 1906; and its report for the year 1920 is partly as follows:

"The Fifteenth Annual Report of the Breeding Bureau of The Jockey Club finds this Bureau with seventeen stallions in New York State, of which number three were received and placed after the close of the breeding season of 1920. The fourteen stallions were mated with three hundred and fourteen mares.

"The Breeding Bureau has nine stallions in Maryland, six in Pennsylvania, and one in Virginia.

"The stallions placed by the Breeding Bureau since its creation in 1906, in the State of New York, are one hundred and thirty-one, which stallions have been bred to eight thousand and eighty-three mares to the close of the breeding season of 1920."

Perhaps as important a service as racing has given outside of its own sphere has been rendered the State of New York through the aid given the State Constabulary in the breeding of its own mounts. When the State Police was organized four years ago Major Chandler, its Official Superintendent, was concerned about a future supply of mounts for his men, and he was gratified with the offer of the Breeding Bureau of The Jockey Club, which placed thoroughbred stallions in the stations at Albany and White Plains. The Western Maryland Jockey Club, which were

secured in Missouri, were mated with such horses as Fashion Plate, Otis, Marse Henry, Oyama and Pharaoh, and the produce of this plan of breeding can now be seen at the various stations. Breeding operations for the future will be confined to the White Plains depot, where there is ample accommodations for the prosecution of the work. Major Chandler is on record as endorsing the plan of using the thoroughbred as a top cross and is enthusiastic over the results achieved by his efforts.

With Federal and State authorities acclaiming the thoroughbred for his qualities of potency, and the fact that only those horses which have proven their quality in the actual test of racing are deemed worthy of being employed in the great work of general horse improvement, the necessity for a continuance of racing would seem to be recognized as an economic essential.

This with the following opinions of General Chamberlain, Chief of the Quartermaster's Department of the United States Army, and his aide, Colonel Armstrong, on the work of the Breeding Bureau in Livingston county, New York, should set forth the value of the thoroughbred:

"Before leaving Ashantee last summer I visited and inspected the Ashantee Stable. At that time I was informed of the policy which was being followed by Mrs. Wadsworth in the efforts which she was making to arouse the interest of the people generally, but especially of the farmers hereabouts. Today I have witnessed the demonstration of what is being done and for the first time fully appreciate what it means and realize its possibilities. Many have bred fine horses in the past, but insofar as I know this is the first policy which makes it feasible for all the people to raise good horses. The Army Remount Service is working throughout the country along the same lines, and excellent results are looked for.

"Having seen the results of breeding thoroughbred stallions to all sorts of mares, and noted the refining influence which that type of sire has impressed on his progeny, I am ready to subscribe to the view that he is the best species to improve our horse families."

Colonel Armstrong was equally as enthusiastic, remarking:

"Judging from what I have just seen here, the breeding system now being put into effect by the Remount Service Quartermasters Corps will be successful. The Genesee Valley Breeders' Association has attained excellent results in improving the quality of riding horses raised by the farmers in this community. If the farmers all over the United States would get good mares and send them to our selected stallions the United States Army would have no fear of a shortage of good cavalry horses. The Remount Service is putting into effect a similar system to what is in vogue here throughout the country, and we hope to educate the farmer to the point where he will realize the financial benefits which will accrue to him through breeding his mares to the type of horse which will give him something that will command a ready market. Once they embark on the project no further argument will be necessary. The farmers of the Genesee Valley are already educated, and their work is a splendid example to the rest of the country. The Jockey Club is deserving of the greatest praise for donating the stallions, without which the work would have been impossible."

The following stallions have been donated to the National Remount Branch of the War Department:

Fashion Plate, ch. h., 14, *Woolsthorpe — Fashionable.
 Pharaoh, br. h., 12, *Meddler — Hatasoo.
 Figinny, b. h., 9, Disguise — Homespun.
 Hurry, b. c., 3, Rock View — Moon'et.
 (Imp.) Military System, br. c., 4, Poor Boy — Maud Annie.
 Questionnaire, br. c., 4, Zeus — Frances.
 (Imp.) Devil Fish, br. h., 8, Robert le Diable — Water Nymph.
 (Imp.) Ben Grow, b. h., 5, Neil Gow — Fruition.
 Ceramic, ch. c., 4, Ballot — Majolica.
 El Supremo, blk. c., 2, Bard of Hope — Linsey Woolsey.

BREEDING BUREAU AFFILIATED WITH FEDERAL GOVERNMENT.

The principal activities of the Breeding Bureau were in the Genesee Valley, N. Y., the New York State Constabulary, with Howard Kellogg, Derby, N. Y., and on Long Island.

BREEDING BUREAU STALLIONS IN NEW YORK STATE.

Accountant. Howard Kellogg, Derby, Erie Co., N. Y.

Al. Bloch. Mrs. Herbert Wadsworth, Ashantee, Avon, Livingston Co., N. Y.

Chief Lally. N. Y. State Constabulary, White Plains, Westchester Co., N. Y.

Cock o' the North. N. Y. State Constabulary, White Plains, Westchester Co., N. Y.

Estimator. E. F. Servis. Genesee, Livingston Co., N. Y.

Eyebrow. Mrs. H. Wadsworth, Avon, Livingston Co., N. Y.

Faulconbridge. B. R. & O. A. Knapp, Cortlandt, Cortlandt Co., N. Y.

Long Tongue. Mrs. H. Wadsworth, Avon, Livingston Co., N. Y.

Mainster Toi. Jas. K. Frayling, Glen Head, L. I., N. Y.

Square Deal 2nd. Mrs. H. Wadsworth, Avon, Livingston Co., N. Y.

Ten Point. James K. Frayling, Glen Head, Nassau Co., L. I., N. Y.

Wonder Boy. Placed by Mrs. Wadsworth with Henratte Bros., LeRoy, Genesee Co., N. Y. Sent to R. Belmont.

War Call. Mrs. Herbert Wadsworth, "Ashantee," Avon, N. Y.

Uncle Bryn. Mrs. Herbert Wadsworth, "Ashantee," Avon, N. Y.

Adams Express. Mrs. Herbert Wadsworth, "Ashantee," Avon, N. Y.

Magic 2nd (Imp.). (Not placed.)

PLACED WITH REMOUNT ASSOCIATION.

(Imp.) Ben Gow, b. h., 5, Neil Gow — Fruition. Donated by Benjamin Davis. Delivered to Remount Association, November, 1920.

Ceramic, ch. c., 4, Ballot — Majolica. Donated by C. K. Moore. Delivered to Remount Association, September, 1920.

(Imp.) Devil Fish, br. h., 8, Robert le Diable — Water Nymph. Donated by W. Fred Ford. Delivered to Remount Association, December, 1920.

Fashion Plate, ch. h., 14, *Woolsthorpe — Fashionable. Placed with Remount Association in June, 1920.

Figinny, b. h., 9, Disguise — Homespun. Placed with Remount Association in June, 1920.

Hurry, b. c., 3, Rock View — Moon'et. Placed with Remount Association in 1920.

(Imp.) Military System, br. c., 4, Poor Boy — Maud Annie. Placed with Remount Association in July, 1920.

Pharaoh, br. h., 12, *Meddler — Hatasoo. Placed with Remount Association in 1920.

Questionnaire, br. c., 4, Zeus — Frances. Donated by Edward Arlington. Placed with Remount Association, November 1, 1920.

El Supremo, blk. c., 2, Bard of Hope — Linsey Woolsey. Donated by W. L. Crosby.

This Commission is not, and never has been, a burden on the State treasury. Its expenses are limited by law to the sum of \$5,000 annually, and are paid by the several racing associations directly to the State Comptroller, upon his assessment thereof.

The Commission makes no recommendation to the Legislature at this time.

December, 1920.

Respectfully submitted

JAMES W. WADSWORTH,

Chairman,

HARRY F. SINCLAIR,

GEORGE W. LOFT,

Commissioners.

By the Commission:

JOSEPH A. REILLY,

Secretary.

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